


Counsel for the State Bar THE STATE BAR OF CALIFORNIA OFFICE OF THE CHIEF TRIAL COUNSEL DAVID T. SAUBER, No. 176554 1149 South Hill Street, 10th Floor Los Angeles, California 90015-2299 Telephone: (213) 765-1000	Case number(s) 01-O-05002-RMT 02-O-11248 02-O-12626 02-O-13024 <i>Investigation Case No.</i> 03-H-00306 kwiktag® 031 975 386 	(for Court's use) <div style="text-align: center; font-size: 2em; font-weight: bold;">PUBLIC MATTER FILED</div> <div style="text-align: center;">OCT 29 2003</div> <div style="text-align: center;">STATE BAR COURT CLERKS OFFICE LOS ANGELES</div>
Counsel for Respondent David C. Carr 5060 Shoreham Pl #200 San Diego, CA 92122	Submitted to <input checked="" type="checkbox"/> assigned judge <input type="checkbox"/> 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 Steven J. Riggs Bar # 147745 A Member of the State Bar of California (Respondent)		

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted August 2, 1990 (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 19 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):
 - ☐ until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
 - ☒ costs to be paid in equal amounts prior to February 1 for the following membership years:
2005, 2006, 2007
 (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 01-J-00615

(b) ☒ date prior discipline effective November 24, 2001

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

(d) ☒ degree of prior discipline Public Reprimand with Conditions

(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.
- (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.
- (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) ☐ **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 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 Two (2) years
- ☐ 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 Three (3) years, which shall commence upon the effective date of the Supreme Court order herein. (See rule 953, California Rules of Court.)

3. Actual Suspension.

- A. Respondent shall be actually suspended from the practice of law in the State of California for a period of Six (6) months
- ☐ 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: _____

E. Additional Conditions of Probation:

- (1) ☐ If Respondent is actually suspended for two years or more, he/she shall remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2) ☒ During the probation period, Respondent shall comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) ☒ Within ten (10) days of any change, 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.
- (4) ☒ 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.

- (5) ☐ 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.
- (6) ☒ 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.
- (7) ☒ 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.
- (8) ☐ 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.
- (9) ☒ The following conditions are attached hereto and incorporated:
- ☐ Substance Abuse Conditions ☒ Law Office Management Conditions
- ☐ Medical Conditions ☒ Financial Conditions
- * Respondent shall return any file materials still in his possession in the Heide & Johnson matter within 30 days of the effective date of this discipline. All materials shall be sent certified mail.*
- (10) ☒ Other conditions negotiated by the parties: See "Accounting and Fee Arbitration" section in attachment.
- ☒ 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 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 951(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.
- ☐ No MPRE recommended.
- ☒ Rule 955, California Rules of Court: Respondent shall comply with the provisions of subdivisions (a) and (c) of rule 955, California Rules of Court, within 30 and 40 days, respectively, from the effective date of the Supreme Court order herein.
- ☐ Conditional Rule 955, California Rules of Court: If Respondent remains actually suspended for 90 days or more, he/she shall comply with the provisions of subdivisions (a) and (c) of rule 955, California Rules of Court, within 120 and 130 days, respectively, from the effective date of the Supreme Court order herein.
- ☐ Credit for Interim Suspension [conviction referral cases only]: Respondent shall be credited for the period of his/her Interim suspension toward the stipulated period of actual suspension.

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: STEVEN J. RIGGS

CASE NUMBER(S): 01-O-05002; 02-O-11248; 02-O-12626; 02-O-13024;
Investigation Case No. 03-H-00306

FACTS AND CONCLUSIONS OF LAW.

FACTS: CASE NO. 02-O-13024:

In or about 1996, Brandon Hein ("Brandon") was convicted of first degree murder, along with several co-defendants, and sentenced to life in prison without parole. Brandon appealed his conviction to the Court of Appeal and it was affirmed. Brandon then petitioned for certiorari to the California Supreme Court.

In or about spring 2001, Alison Collins, a friend of Brandon and representing an Organization calling itself Friends of Brandon Hein, contacted Respondent regarding Brandon's legal situation. The potential representation of Brandon in federal post-conviction relief proceedings was discussed.

Respondent had a number of contacts with Collins. Respondent also met with Brandon twice at Tehachapi State Prison including one in August 2001. Respondent also received the trial transcripts for review.

On or about October 1, 2001, the California Supreme Court denied Brandon's petition for certiorari. Brandon had one year from this date to file for federal post-conviction relief. On or about October 18, 2001, Respondent met with the parents, Gene Hein and Patricia Kraetsch, and step-parents, Janice Hein and Norman Kraetsch, of Brandon. At the meeting a verbal agreement was reached wherein Respondent agreed to represent Brandon and the initial advance fee of \$25,000 was to be paid by the Friends of Brandon Hein.

Respondent was paid a total of \$16,500 by the Friends of Brandon Hein in four cashier's checks between October and December of 2001.

Respondent prepared a written fee agreement which was then received by Patricia Kraetsch. The fee agreement was never signed by Respondent and Brandon.

On or about March 18, 2002, Patricia Kraetsch sent a letter written by Brandon via certified mail to Respondent. This letter indicated that Brandon was terminating Respondent's employment in the appeal matter and requested that Respondent return the money paid to him and the transcripts provided to him.

After his employment was terminated, Respondent did not provide Brandon with an accounting of his charges and did not refund any part of the \$16,500 fee.

CONCLUSIONS OF LAW: CASE NO. 02-O-13024:

COUNT TWO: By failing to refund any part of the \$16,500 in fees paid in advance that had not been earned, Respondent wilfully violated Rules of Professional Conduct, rule 3-700(D)(2).

COUNT THREE: By failing to release all of his client's papers and property to the client after being terminated, Respondent wilfully violated Rules of Professional Conduct, rule 3-700(D)(1).

FACTS: CASE NO. 02-O-11248:

In or about February 2000, Jeannie Johnson ("Johnson") employed Respondent to file a habeas petition following her 1997 criminal conviction in United States District Court, case no. CR97-0017, entitled United States v. Johnson.

Respondent quoted a fee of \$10,000.00 to Johnson for preparing and filing the petition. Respondent and Johnson understood that the petition was to be based in large part upon alleged perjured testimony of the government's main witness. In or about February 2000, Johnson paid Respondent \$2,500.00 of the \$10,000.00. In or about April 2000, Johnson paid Respondent the remaining \$7,500.00.

On or about November 1, 2000, the last day to file the habeas petition, Respondent, or someone on his behalf, filed a Motion to Vacate or Set Aside Judgement Pursuant to Title 28, United States Code, Section 2255 (the "Petition"). The Petition filed with the court did not provide any substantive factual basis for setting aside the judgment in Johnson's case; instead Respondent, in the Petition, stated that an amended petition, containing the necessary facts, would be filed within thirty days.

During the next several weeks Johnson sent Respondent frequent inquiries regarding her case, including without limitation the status of her amended petition. On or about November 14, 2000, Respondent wrote to Johnson indicating that he would have the amendment filed "in about two weeks." Respondent did not file an amended petition within thirty days of filing the Petition. In fact, Respondent never filed an amended petition on behalf of Johnson.

On or about May 1, 2001, the court dismissed the Petition and terminated the case. The court stated that "[a]lthough Petitioner [Johnson] filed this Petition on the grounds of ineffective assistance of counsel and perjured testimony, she fails to detail a single acts [sic] or omission of counsel, nor does she aver the contents of the alleged perjured testimony, or how the testimony affects her conviction."

On or about January 22, 2002, Johnson wrote to Respondent at his office address, requesting a return of her file and of the full \$10,000.00 fees she had paid him, due to his refusal to work on her case. Respondent received this letter, but, to date, has not returned any of the \$10,000.00 fees, nor did he return her files.

On or about March 8, 2002, the State Bar opened an investigation, case no. 02-O-11248, pursuant to a complaint filed against Respondent by Johnson (the "Johnson matter").

On or about March 21, 2002, State Bar investigator Laurie Collier wrote to Respondent through his counsel, David Carr ("Carr"), regarding the Johnson matter. The investigator's letter requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Johnson matter. Carr received the investigator's March 21, 2002, letter and on or about March 25, 2002, Carr requested a 30-day extension to provide a written response to the allegations in the Johnson matter. This request for an extension was granted, and by letter dated March 26, 2002, the investigator gave Carr until May 3, 2002, to offer Respondent's response.

On or about June 18, 2002, Carr faxed a letter withdrawing as Respondent's counsel, and directing the State Bar to send all future correspondence in the Johnson matter directly to Respondent at his official address of record. At no time did Respondent, either through counsel or *in pro per*, provide a written substantive response to the investigator's March 21, 2002, request for information in the Johnson matter.

CONCLUSIONS OF LAW: CASE NO. 02-O-11248:

COUNT ONE: By failing to include a factual basis for granting the Petition in the original November 1, 2000, filing, by failing to file an amended petition, and by failing to take reasonable steps to avoid reasonably foreseeable prejudice to his client, Respondent intentionally, recklessly or repeatedly failed to perform with competence the work for which he was employed

COUNT TWO: By failing to respond to Johnson's request to return her files, Respondent wilfully failed to release promptly upon termination of employment, all client papers and property at the request of the client, in wilful violation of Rules of Professional Conduct, rule 3-700(D)(1).

COUNT THREE: By failing to return any portion of the \$10,000.00 fees Johnson paid for the habeas petition, Respondent failed to refund promptly any part of a fee paid in advance that had not been earned.

COUNT FOUR: By not providing a written response to the allegations in the Johnson matter or otherwise cooperating in the investigation of the Johnson matter, Respondent failed to cooperate in a disciplinary investigation in wilful violation of Business and Professions Code section 6068(i).

FACTS: CASE NO. 01-O-05002:

On or about June 21, 2001, Michael and Michelle Easton (the "Eastons") employed Respondent to represent them in a federal investigation being conducted by the U.S. Attorney, Internal Revenue Services ("IRS") and U.S. Postal Service ("USPS") (the "Eastons' matter"). On or about June 21, 2001, the Eastons paid Respondent \$7500.00 in advance fees for his services. No written retainer agreement was signed.

In June and July of 2001, Respondent communicated with the Eastons regarding their matter. On or about July 25, 2001, Respondent sent a letter to Assistant U.S. Attorney John C. Early ("Early"), notifying Early that he was representing the Eastons and requesting a meeting to present information on behalf of the Eastons. At or near the same time, the Eastons provided Respondent with material he needed to prepare for such a meeting.

On or about September 26, 2001, Michelle Easton discharged Respondent requesting a full refund of the \$7500.00 in advance fees that the Eastons had paid and an accounting for legal services rendered. Respondent has not, to date, provided the accounting and has not refunded any amount of unearned legal fees.

CONCLUSIONS OF LAW: CASE NO. 01-O-05002:

COUNT TWO: By failing to provide a true and complete accounting of legal services rendered, Respondent failed to render appropriate accounts to a client regarding all funds of the client coming into Respondent's possession, in wilful violation of Rules of Professional Conduct, rule 4-100(B)(3).

FACTS: INVESTIGATION CASE NO. 03-H-00306:

On November 3, 2001, a Stipulation Re Facts, Conclusions of Law and Disposition and Order Approving in Case No. 01-J-00615, signed by Respondent was filed with the State Bar Court. Pursuant to this Stipulation, Respondent agreed to a Public Reproval and was to comply with the terms of the reproval for two years.

Respondent failed to comply with the terms of the public reproval in Case No. 01-J-00615 by: failing to timely file a Quarterly Report due on October 10, 2002; failing to attend ethics school by November 28, 2002; failing to complete the Multistate Professional Responsibility Exam by November 28, 2002; and failing to complete six hours of MCLE by November 28, 2003.

CONCLUSIONS OF LAW: INVESTIGATION CASE NO. 03-H-00306:

By failing to comply with the conditions of the public reproval in Case No. 01-J-00615, Respondent wilfully violated Rules of Professional Conduct, rule 1-110.

///
///
///
///
///
///
///
///

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>
02-O-13024	1	Rules of Professional Conduct, rule 3-110(A)
	4	Business and Professions Code, section 6068(m)
01-O-05002	1	Rules of Professional Conduct, rule 3-110(A)
	3	Rules of Professional Conduct, rule 3-700(D)(2)
02-O-12626	In its entirety	

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(6), was October 28, 2003.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of **October 28, 2003**, the estimated prosecution costs in this matter are approximately **\$4,920**.

Respondent acknowledges that this figure is an estimate only and that it does not include State Bar Court costs which will be included in any final cost assessment. 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.

RESTRICTIONS WHILE ON ACTUAL SUSPENSION.

1. During the period of actual suspension, respondent shall not:

1. Render legal consultation or advice to a client;
2. Appear on behalf of a client in any hearing or proceeding or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, commissioner, or hearing officer;

3. Appear as a representative of a client at a deposition or other discovery matter;
 4. Negotiate or transact any matter for or on behalf of a client with third parties;
 5. Receive, disburse, or otherwise handle a client's funds; or
 6. Engage in activities which constitute the practice of law.
2. Respondent shall declare under penalty of perjury that he or she has complied with this provision in any quarterly report required to be filed with the Probation Unit, pertaining to periods in which the respondent was actually suspended from the practice of law.

FINANCIAL CONDITIONS: ACCOUNTING and FEE ARBITRATION.

Case No. 01-O-05002:

Pursuant to the terms of this stipulation, Respondent agrees to provide Michael and Michelle Easton ("Eastons") with an accounting for his legal services and to participate in binding fee arbitration should Eastons request such arbitration as set forth below. Respondent specifically agrees to waive any statute of limitation which may be applicable to a binding fee arbitration proceeding in this matter.

If the Eastons object to Respondent's accounting, Respondent shall offer binding arbitration of the fee dispute to the Eastons. Respondent will notify the State Bar Probation Unit in writing if the Eastons desire to go to arbitration within 10 days of the Eastons making such request. Respondent will provide the accounting and offer to bring this matter to arbitration under the conditions listed below.

1. Within 45 days of the effective date of the discipline in this matter, Respondent shall prepare and send via certified mail a written accounting for the legal services provided to Michael and Michelle Easton in the matter identified above in Case No. 01-O-05002. Along with the accounting, Respondent must offer in writing to Michael and Michelle Easton to take the matter to fee arbitration and must agree that the fee arbitration will be *binding*.
2. The arbitration will address Respondent's obligation to the Eastons and not any monies or claims that the Eastons owe the Respondent.
3. Respondent shall pay for the filing fees of the arbitration.
4. Respondent shall abide by the arbitration award and pay the award within 30 days of the award.

5. Respondent shall provide the State Bar Probation Unit the following:

- (1) a copy of the accounting and written offer to bring this matter to binding fee arbitration which were sent to the Eastons within 10 days of having sent these items to the Eastons.
- (2) the date of the actual arbitration proceeding. Respondent shall notify the Probation Unit in writing of this date within 10 days of the setting.
- (3) Respondent shall provide the Probation Unit with a copy of the arbitration decision within 10 days of the decision being rendered.
- (4) Respondent shall pay any award that is granted in the Fee Arbitration proceeding to the Eastons as directed in the fee arbitration decision or, if the decision is silent, within 30 days of the decision being rendered.
- (5) Respondent shall provide proof of payment of the arbitration award to the Probation Unit within 10 days of making such payment.
- (6) If Respondent does not pay the Eastons the amount awarded by in the fee arbitration proceeding, Respondent shall waive any objection to payment by the State Bar Client Security Fund to the Eastons in the amount determined by in the fee arbitration proceeding plus 10% per annum from the date of the fee arbitration award.
- (7) Respondent shall pay the State Bar Client Security Fund ("CSF") for any payment rendered by CSF to the Eastons.

Case No. 02-O-13024:

Pursuant to the terms of this stipulation, Respondent agrees to provide the Friends of Brandon Hein, care of Gene Hein and Patricia Kraetsch ("Hein"), with an accounting for his legal services and to participate in binding fee arbitration should Hein request such arbitration as set forth below.

Respondent specifically agrees to waive any statute of limitation which may be applicable to a binding fee arbitration proceeding in this matter.

If Hein objects to Respondent's accounting, Respondent shall offer binding arbitration of the fee dispute to Hein. Respondent will notify the State Bar Probation Unit in writing if Hein desires to go to arbitration within 10 days of Hein making such request. Respondent will provide the accounting and offer to bring this matter to binding fee arbitration under the conditions listed below.

1. Within 45 days of the effective date of the discipline in this matter, Respondent shall prepare and send via certified mail a written accounting for the legal services provided in the Hein matter as identified above in Case No. 02-O-13024. Along with the accounting, Respondent must

offer in writing to the Friends of Brandon Hein, care of Gene Hein and Patricia Kraetsch, to take the matter to fee arbitration and must agree that the fee arbitration will be *binding*. The accounting and offer of fee arbitration must be mailed to both Gene Hein and Patricia Kraetsch.

2. The arbitration will address Respondent's obligation to Hein and not any monies or claims that Hein owes the Respondent.

3. Respondent shall pay for the filing fees of the arbitration.

4. Respondent shall abide by the arbitration award and pay the award within 30 days of the award.

5. Respondent shall provide the State Bar Probation Unit the following:

(1) a copy of the accounting and written offer to bring this matter to binding fee arbitration which were sent to Gene Hein and Patricia Kraetsch within 10 days of having sent these items.

(2) the date of the actual arbitration proceeding. Respondent shall notify the Probation Unit in writing of this date within 10 days of the setting.

(3) Respondent shall provide the Probation Unit with a copy of the arbitration decision within 10 days of the decision being rendered.

(4) Respondent shall pay any award that is granted in the Fee Arbitration proceeding to Hein as directed in the fee arbitration decision or, if the decision is silent, within 30 days of the decision being rendered.

(5) Respondent shall provide proof of payment of the arbitration award to the Probation Unit within 10 days of making such payment.

(6) If Respondent does not pay Hein the amount awarded by in the fee arbitration proceeding, Respondent shall waive any objection to payment by the State Bar Client Security Fund to Hein in the amount determined by in the fee arbitration proceeding plus 10% per annum from the date of the fee arbitration award.

(7) Respondent shall pay the State Bar Client Security Fund ("CSF") for any payment rendered by CSF to Hein.

///
///
///
///
///
///
///
///

FINANCIAL CONDITIONS, RESTITUTION.

Respondent waives any objection to payment by the State Bar Client Security Fund upon a claim for the principal amount of restitution set forth herein.

Neither this Stipulation, nor participation in the Attorney Diversion and Assistance Program precludes or stays the independent review and payment of applications for reimbursement filed against the Respondent pursuant to the Rules of Procedure, Client Security Fund Matters.

AUTHORITIES FOR DISCIPLINE

The level of discipline in this matter is supported by the following cases: *Lester v. State Bar* (1976) 17 Cal.3d 547 [Six months actual suspension in similar matter involving three clients]; *Colangelo v. State Bar* (1991) 53 Cal.3d 1255; *Mathew v. State Bar* (1989) 49 Cal.3d 784; *Smith v. State Bar* (1985) 38 Cal.3d 525; and *Pineda v. State Bar* (1989) 49 Cal.3d 753.

Respondent admits that the foregoing facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

In the Matter of <u>Stephen</u> <u>Stephen J. Riggs</u> A Member of the State Bar	Case Number(s): 01-0-05002-RMT 02-0-11248 02-0-12656, 02-0-13024
-----------------------------------------------------------------------------------------	------------------------------------------------------------------------------

Financial Conditions

- a. ☒ Respondent shall pay restitution to Jeannie Johnson [payee(s)] (or the Client Security Fund, if appropriate), in the amount(s) of \$10,000.00, plus 10% interest per annum accruing from April 1, 2000, and provide proof thereof to the Probation Unit, Office of the Chief Trial Counsel, ☒ no later than 2 years from the effective date of discipline in this matter or ☐ on the payment schedule set forth on the attachment under "Financial Conditions, Restitution."
- b. ☐ 1. If respondent possesses client funds at any time during the period covered by a required quarterly report, respondent shall file with each required report a certificate from respondent and/or a certified public accountant or other financial professional approved by the Probation Unit, certifying that:
- a. respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";
 - b. respondent has kept and maintained the following:
 - i. a written ledger for each client on whose behalf funds are held that sets forth:
 - 1. the name of such client;
 - 2. the date, amount and source of all funds received on behalf of such client;
 - 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
 - 4. the current balance for such client.
 - ii. a written journal for each client trust fund account that sets forth:
 - 1. the name of such account;
 - 2. the date, amount and client affected by each debit and credit; and,
 - 3. the current balance in such account.
 - iii. all bank statements and cancelled checks for each client trust account; and,
 - iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.
 - c. respondent has maintained a written journal of securities or other properties held for clients that specifies:
 - i. each item of security and property held;
 - ii. the person on whose behalf the security or property is held;
 - iii. the date of receipt of the security or property;
 - iv. the date of distribution of the security or property; and,
 - v. the person to whom the security or property was distributed.
2. If respondent does not possess any client funds, property or securities during the entire period covered by a report, respondent must so state under penalty of perjury in the report filed with the Probation Unit for that reporting period. In this circumstance, respondent need not file the accountant's certificate described above.
3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.
- c. ☐ Within one (1) year of the effective date of the discipline herein, respondent shall supply to the Probation Unit satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

In the Matter of Steven J. Riggs


Case Number(s): 01-0-05002-RMT
02-0-11248
02-0-12656
02-0-13024

A Member of the State Bar

Law Office Management Conditions

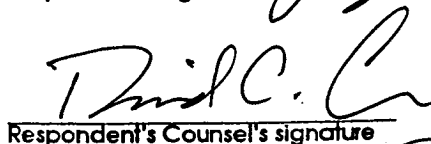
- a. ☐ Within ____ days/ ____ months/ ____ years of the effective date of the discipline herein, Respondent shall develop a law office management/ organization plan, which must be approved by respondent's probation monitor, or, if no monitor is assigned, by the Probation Unit. This plan must include procedures to send periodic reports to clients; the documentation of telephone messages received and sent; file maintenance; the meeting of deadlines; the establishment of procedures to withdraw as attorney, whether of record or not, when clients cannot be contacted or located; and, for the training and supervision of support personnel.
- b. ☒ Within ____ days/ 6 months ____ years of the effective date of the discipline herein, respondent shall submit to the Probation Unit satisfactory evidence of completion of no less than 8 hours of MCLE approved courses in law office management, attorney client relations and/ or general legal ethics. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and respondent shall not receive MCLE credit for attending these courses (Rule 3201, Rules of Procedure of the State Bar.)
- c. ☐ Within 30 days of the effective date of the discipline, respondent shall join the Law Practice Management and Technology Section of the State Bar of California and pay the dues and costs of enrollment for ____ year(s). Respondent shall furnish satisfactory evidence of membership in the section to the Probation Unit of the Office of Chief Trial Counsel in the first report required.

Oct. 20, 2003
Date


Respondent's signature

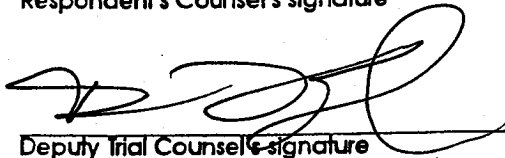
STEVEN J. RIGGS
print name Stephen J. Riggs

10/20/03
Date


Respondent's Counsel's signature

print name David C. Carr

10/28/03
Date


Deputy Trial Counsel's signature

print name David T. Sauber

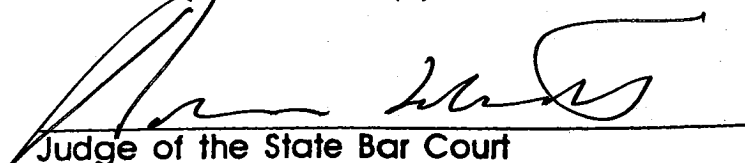
ORDER

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.)

10/28/03
Date


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 October 29, 2003, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION
AND ORDER APPROVING, filed October 29, 2003**

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:

**DAVID CARR, ESQ.
5060 SHOREHAM PL #200
SAN DIEGO CA 92122**

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

DAVID SAUBER, ESQ., Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **October 29, 2003.**



Rose M. Luthi
Case Administrator
State Bar Court

1 **DECLARATION OF SERVICE BY FACSIMILE TRANSMISSION**

2

3 **CASE NUMBER: 01-O-05002-RMT; 02-O-11248; 02-O-12626; 02-O-13024; 03-H-00306**

4 I, the undersigned, over the age of eighteen (18) years, whose business address and place of
5 employment is the State Bar of California, 1149 South Hill Street, Los Angeles, California 90015,
6 declare that I am not a party to the withing action; that I am readily familiar with the State Bar of
7 California's practice for collection and processing of correspondence for facsimile transmission; that
8 in the ordinary course of the State Bar of California's practice, correspondence collected and
9 processed by the State Bar of California would be sent by telecopy machine located within the office
10 of the State Bar; that in the City of County of Los Angeles, on the date shown below, I am informed
11 and believe that Respondent's Counsel has agreed to receive service by facsimile transmission a true
12 and correct coy of the within described documents(s):

13

14 **STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER**
15 **APPROVING**

16

17 through a telecopier machine located at the offices of the State Bar in Los Angeles on the date and
18 time shown below, from telecopier telephone number (213) 765-1442 to the telecopier telephone
19 number shown below:

20 **David C. Carr**
21 **5060 Shoreham Pl #200**
22 **San Diego, CA 92122**
23 **(858)622-8945 - Telecopier**

24


25 The State Bar telecopy machine used in this service reported this transmission to be complete and
26 without error.

27

28 I declare under penalty of perjury that the foregoing is true and correct. Executed at 1149 South
Hill Street, Los Angeles, California, on the date shown below.

DATE AND TIME: October 28, 2003

SIGNED


Lupe Pacheco-Granados
Declarant