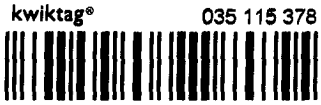


ORIGINAL

<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) 02-0-10286 Investigations 02-0-10288 02-0-13891 03-0-03866</p>	<p>(for Court's use) FILED FEB 04 2004 STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>Counsel for Respondent Stephen M. Goodman 16541 Gothard St., #211 Huntington Beach, CA 92647 Phone: (714) 596-2303</p>	<p>PUBLIC MATTER</p> <p>kwiktag® 035 115 378</p> 	
<p>In the Matter of Jon David Railsback Bar # 64853 A Member of the State Bar of California (Respondent)</p>	<p>Submitted to <input type="checkbox"/> assigned judge <input checked="" type="checkbox"/> settlement judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted August 11, 1975 (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 10 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 and 2006
(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 Regulations 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 00-0-10757

(b) ☐ date prior discipline effective December 2, 2001

(c) ☐ Rules of Professional Conduct/ State Bar Act violations: Unauthorized practice of law

B&P Code Sections 6068(a) and 6106.

(d) ☐ degree of prior discipline 30 days actual suspension

(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 [s. 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 One (1) year

- ☐ 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 Two (2) 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 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: _____

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, ^{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.
- (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. If the preceding calendar quarter 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:
- | | |
|-----------------------------------------------------|-----------------------------------------------------------|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input checked="" type="checkbox"/> Financial Conditions |
- (10) ☐ Other conditions negotiated by the parties:
- ☐ 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. Respondent took and passed the MPRE in November 2002.
- ☐ 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.

In the Matter of

Case Number(s):

Jon David Railsback

02-0-12086 et al.

A Member of the State Bar

Financial Conditions

- a. ☒ Respondent shall pay restitution to Fred Farm [payee(s)] (or the Client Security Fund, if appropriate), in the amount(s) of \$1,011.00, plus 10% interest per annum accruing from September 7, 1999, and provide proof thereof to the Probation Unit, Office of the Chief Trial Counsel,
- ☒ no later than Six (6) months after the effective date of the discipline or imposed in this matter
- ☐ 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.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: JON DAVID RAILSBACK, State Bar No. 64853

INVESTIGATION NUMBERS: 02-O-10286, 02-O-10288, 02-O-13891 & 03-O-03866

FACTS AND CONCLUSIONS OF LAW

Investigation Number 02-O-10286

On or about November 2, 2001, the California Supreme Court issued and filed an order, number S100287, in State Bar Court case number 00-O-10757, placing Respondent on actual suspension for 30 days. Respondent was properly served with the Supreme Court's order of November 2, 2001. Respondent received a copy of the order prior to December 2, 2001.

Respondent was on notice of the fact that his 30 day actual suspension was to begin on December 2, 2001, prior to that date.

Respondent's actual suspension in case number 00-O-10757 commenced December 2, 2001 and continued to January 1, 2002. During that period of time, Respondent was not entitled to practice law or hold himself out as entitled to practice law in the State of California.

On or about December 17, 2001, Respondent caused to be filed with the Orange County Superior Court, in the case of In re the Marriage of Taylor and Taylor, case number 01 D 00 93 36, a pleading identified as a declaration re child custody. In this pleading, Respondent is identified as counsel for the respondent, Michael Taylor. Respondent thereby held himself out as an attorney licensed to practice law in the State of California at that time.

Also on or about December 17, 2001, Respondent appeared in the Orange County Superior Court on behalf of Michael Taylor in In re the Marriage of Taylor and Taylor. Respondent thereby held himself out as an attorney licensed to practice law and engaged in the practice of law in the State of California at that time.

Legal Conclusion

By filing the above-described pleadings and appearing in the Orange County Superior Court in the Taylor case on December 17, 2001, Respondent held himself out as entitled to practice law and practiced law when he was not an active member of the State Bar of California. Respondent thereby engaged in the unauthorized practice of law in wilful violation of Business and Professions Code, sections 6125 and 6126, and thereby failed to support the laws of the State of California in wilful violation of Business and Professions Code, section 6068(a).

Investigation Number 02-O-10288

On or about December 4, 2001, Respondent caused to be filed with the Orange County Superior Court, in the case of Ruggiero v. Hethcoat, case number 00 D 01 13 50, two pleadings identified as a judgement and proof of service. In these pleadings, Respondent is identified as counsel for the petitioner, Mary Ruggiero. Respondent thereby held himself out as an attorney licensed to practice law in the State of California at that time.

On or about December 17, 2001, Respondent caused to be filed with the Orange County Superior Court, in the case of Ruggiero v. Hethcoat, case number 00 D 01 13 50, a pleading identified as a declaration re domestic violence orders. In this pleading, Respondent is identified as counsel for the petitioner, Mary Ruggiero. Respondent thereby held himself out as an attorney licensed to practice law in the State of California at that time.

Also on or about December 17, 2001, Respondent appeared in the Orange County Superior Court on behalf of Mary Ruggiero in the case of Ruggiero v. Hethcoat. Respondent thereby held himself out as an attorney licensed to practice law and engaged in the practice of law in the State of California at that time.

On or about December 26, 2001, Respondent caused to be filed with the Orange County Superior Court, in the case of Ruggiero v. Hethcoat, case number 00 D 01 13 50, a pleading identified as a notice of entry of judgment. In this pleading, Respondent is identified as counsel for the petitioner, Mary Ruggiero. Respondent thereby held himself out as an attorney licensed to practice law in the State of California at that time.

Legal Conclusion

By filing the above-described pleadings in the Orange County Superior Court in the Ruggiero case on December 4, 17 and 26, 2001 and appearing in that case on December 17, 2001, Respondent held himself out as entitled to practice law and practiced law when he was not an active member of the State Bar of California. Respondent thereby engaged in the unauthorized practice of law in wilful violation of Business and Professions Code, sections 6125 and 6126, and thereby failed to support the laws of the State of California in wilful violation of Business and Professions Code, section 6068(a).

Investigation Number 02-O-13891

On or about December 6, 12 and 19, 2001, Respondent sent letters, a total of four, to opposing counsel on behalf of his client, Mark Paskey. In said correspondence, Respondent held himself out as an attorney licensed to practice law in the State of California at that time.

On or about December 18, 2001, Respondent met with for approximately 1 ½ hours and gave legal advice to Mark Paskey. Respondent thereby held himself out as an attorney licensed to practice law and engaged in the practice of law in the State of California at that time.

Legal Conclusion

By mailing the above-described letters of December 6, 12 and 19, 2001 and giving legal advice to Mark Pansky on December 18, 2001, Respondent held himself out as entitled to practice law and

practiced law when he was not an active member of the State Bar of California. Respondent thereby engaged in the unauthorized practice of law in wilful violation of Business and Professions Code, sections 6125 and 6126, and thereby failed to support the laws of the State of California in wilful violation of Business and Professions Code, section 6068(a).

Investigation Case 03-O-03866

On or about November 2, 2001, the California Supreme Court issued and filed an order, number S100287, in State Bar Court case number 00-O-10757, imposing discipline upon Respondent pursuant to a stipulation executed by Respondent and approved by the State Bar Court on or about June 27, 2001. Respondent was properly served with the Supreme Court's order of November 2, 2001. Respondent received a copy of the order prior to December 2, 2001, its effective date.

As part of the discipline agreed to by Respondent, recommended by the State Bar Court and imposed by the Supreme Court in case number 00-O-10757, Respondent was placed on disciplinary probation on December 2, 2001 and ordered, as a condition of said probation, to attend State Bar Ethics School by December 2, 2002 and pay restitution of \$1,011 plus interest to Fred Farm.

Respondent was on notice, prior to December 2, 2001, of the fact that he was required to comply with the above-mentioned conditions of probation, but failed to do so.

Legal Conclusion

By failing to attend State Bar Ethics School and pay restitution to Fred Farm as ordered by the Court, Respondent failed to comply with the conditions attached to his disciplinary probation in wilful violation of Business and Professions Code, section 6068(k).

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

The parties waive the issuance of and hearing on a Notice of Disciplinary Charges.

PENDING PROCEEDINGS

The disclosure date referred to, on page one, paragraph A.(6), was ~~December 10, 2003~~ *JANUARY 7, 2004*.

Date

1/26/04

Respondent's signature



Jon David Railsback
print name

Date

1/27/04

Respondent's Counsel's signature

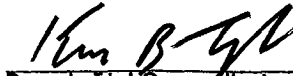


Stephen M. Goodman
print name

Date

1/29/04

Deputy Trial Counsel's signature



Kevin B. Taylor
print name

ORDER

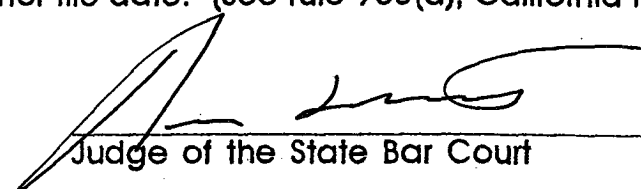
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- ☒ 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

2/3/04


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 February 4, 2004, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION
AND ORDER APPROVING, filed February 4, 2004**

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

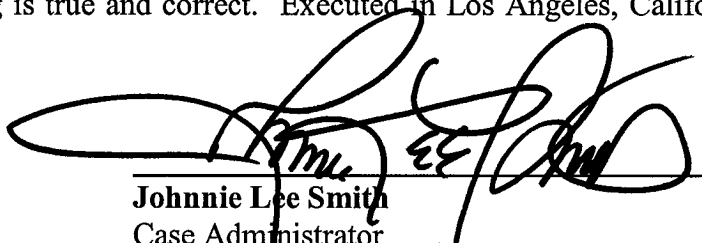
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**STEPHEN MICHAEL GOODMAN
16541 GOTHARD ST #211
HUNTINGTON BEACH CA 92647**

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

KEVIN TAYLOR, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on February 4, 2004.


Johnnie Lee Smith
Case Administrator
State Bar Court