

Counsel for the State Bar THE STATE BAR OF CALIFORNIA OFFICE OF THE CHIEF TRIAL COUNSEL - ENFORCEMENT CHARLES A. MURRAY, No. 146069 1149 S. Hill Street Los Angeles, CA 90015-2299 Telephone: (213) 765-1236	Case number(s) 03-C-00576-PEM kwiktag® 031 974 804 	(for Court's use) PUBLIC MATTER FILED <i>[Signature]</i> APR 30 2004 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
Counsel for Respondent BRAD ALAN THORNTON, No. 213093 268 W. Dryden St. #118 Glendale, CA 91202 Telephone: (213) 359-3959	Submitted to <input type="checkbox"/> assigned judge <input checked="" type="checkbox"/> settlement judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING REPROVAL <input type="checkbox"/> PRIVATE <input checked="" type="checkbox"/> PUBLIC <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of BRAD ALAN THORNTON Bar # 213093 A Member of the State Bar of California (Respondent)		

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted June 4, 2001
(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):
 - costs added to membership fee for calendar year following effective date of discipline (public reproval)
 - case ineligible for costs (private reproval)
 - costs to be paid in equal amounts for the following membership years:
2005 & 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."

(8) The parties understand that

- (a) A private reproof imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
- (b) A private reproof imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
- (c) A public reproof imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

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.
- (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) Private reproof (check applicable conditions, if any, below)

(a) Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).

(b) Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).

or

(2) Public reproof (check applicable conditions, if any, below)

E. Conditions Attached to Reproof:

(1) Respondent shall comply with the conditions attached to the reproof for a period of three (3) years

(2) During the condition period attached to the reproof, 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 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 condition period attached to the reproof. 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 the reproof during the preceding calendar quarter. If the first report would cover less than thirty (30) days, that report shall be submitted on the next following 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 condition period and no later than the last day of the condition period.

- (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 such reports as may be requested, in addition to quarterly reports required to be submitted to the Probation Unit. Respondent shall cooperate fully with the 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 conditions attached to the reproof.
- (7) Within one (1) year of the effective date of the discipline herein, respondent shall provide to the Probation Unit satisfactory proof of attendance of the Ethics School and passage of the test given at the end of that session.
- No Ethics School ordered.
- (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 required to be filed with the Probation Unit.
- (9) 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 of the effective date of the reproof.
- No MPRE ordered.
- (10) The following conditions are attached hereto and incorporated:
- | | |
|--|---|
| <input checked="" type="checkbox"/> Substance Abuse Conditions
<i>(pages 8-9)</i> | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |
- (11) Other conditions negotiated by the parties:

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: **BRAD ALAN THORNTON ("Respondent"), #213093**

CASE NUMBER: **03-C-00576-PEM**

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(6), was March 1, 2004.

PARTIES ARE BOUND BY THE STIPULATED FACTS:

The parties intend to be and are hereby bound by the stipulated facts contained in this stipulation. This stipulation as to facts and the facts so stipulated shall independently survive even if the conclusions of law and/or stipulated disposition set forth herein are rejected or changed in any manner whatsoever by the Hearing Department or the Review Department of the State Bar Court, or by the California Supreme Court.

WAIVER OF FINALITY OF CONVICTION (rule 607):

Pursuant to the Rules of Procedure of the State Bar of California, rule 607 the parties stipulate that the Court may decide the issues as to the discipline to be imposed even if the criminal convictions discussed herein are not final.

Respondent waives finality of his conviction and consents to the State Bar Court's acceptance of this Stipulation as to facts, conclusions of law and discipline in all respects as if the conviction was final, including the entry of findings consistent with this Stipulation, imposition of discipline, or entry of a recommendation as to the degree of the discipline to be imposed.

Respondent waives any right to challenge on the basis of a lack of finality of his conviction the State Bar Court's recommendation of discipline, if any, and the actual imposition of discipline, if any, by the State Bar Court or the California Supreme Court.

Respondent further waives any right he may have to seek review of reconsideration on the basis of any relief he may receive as a result of any appeal of, or petition regarding, the criminal conviction underlying any recommendation of and/or actual imposition of discipline by the State Bar Court or the California Supreme Court.

PROCEDURAL BACKGROUND.

This is a proceeding pursuant to Business and Professions code sections 6101 and 6102 and Rule 951 of the California Rules of Court.

April 23, 2003, Respondent was convicted of misdemeanor violation of California Vehicle Code section 23152(b), wilfully and unlawfully driving a vehicle with a blood alcohol content of .08% or more [BAL = .21%], with a prior drunk driving conviction on June 4, 2002, also for a misdemeanor violation of the same Vehicle Code section 23152(b).

On August 11, 2003, the Review Department of the State Bar Court issued an order referring this matter to the Hearing Department for a hearing and decision limited to whether the facts and circumstances surrounding the offense of which Respondent was convicted involved moral turpitude or other misconduct warranting discipline.

On September 30, 2003, the Review Department of the State Bar Court issued an augmented order directing the Hearing Department to include a hearing and decision recommending discipline to be imposed in the event the hearing Department finds that the facts and circumstances surrounding the offense of which Respondent was convicted involved moral turpitude or other misconduct warranting discipline

STIPULATION AS TO 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, or has otherwise committed acts of misconduct warranting discipline:

STIPULATED FACTS:

First Drunk Driving Conviction:

On June 4, 2002, Respondent was convicted of a misdemeanor violation of section 23152(b) of the Vehicle Code, wilfully and unlawfully driving a motor vehicle with a blood alcohol content of .08% or more in his blood [Docket No. S318061, Court No. 41470]. The conviction was based upon a violation that took place on February 9, 2002, eight months after Respondent was admitted to the State Bar. Respondent was driving with a blood alcohol content of .20%. Sentencing was suspended and Respondent was placed on informal probation for 36 months with conditions that included that his driving be restricted to work-related driving, that he not drive with a measurable amount of alcohol in his system and that he violate no law.

Second Drunk Driving Conviction:

Only a four months after his first drunk driving conviction, on October 9, 2002, at approximately 9:30 p.m., in the City of Los Angeles, Respondent was involved in a one vehicle collision wherein he drove his Jeep into a guardrail, causing major property damage.

The responding police officer observed Respondent at the scene display strong objective symptoms of being under the influence. Respondent denied having consumed any alcohol and agreed to perform field sobriety tests. He was unable to perform the field sobriety tests that he attempted. Respondent admitted driving and there was a witness. Later investigation concluded that Respondent caused the collision by driving under the influence of alcohol and making an unsafe turning movement. Respondent submitted to a breath test at the police station which showed that Respondent had a blood alcohol level of .21%.

On November 20, 2002, the Los Angeles County District Attorney charged Respondent with the following wilful and unlawful violations:

Count One: Vehicle Code section 23152(a), driving a vehicle while under the influence of an alcoholic beverage and a drug or under the combined influence of an alcoholic beverage

and a drug, a misdemeanor. It was further alleged that Respondent had been convicted of violating section 23152(b) of the Vehicle Code [June 4, 2002], a prior conviction for alcohol-related driving within the previous seven (7) years;

Count Two: Vehicle Code section 23152(b), driving a vehicle with a blood alcohol or 0.08% or more by weight of alcohol in his blood, a misdemeanor. It was further alleged that Respondent had been convicted of violating section 23152(b) of the Vehicle Code [June 4, 2002], a prior conviction for alcohol-related driving within the previous seven (7) years; and,

Count Three: Vehicle Code section 14601.1, driving a vehicle at a time when his driving privilege was suspended or revoked and he had knowledge of the suspension or revocation.

On April 23, 2003, Respondent entered a plea of nolo contendere to Count Two and the criminal court accepted his plea, found him guilty and convicted him of a misdemeanor for wilful and unlawful violation of California Vehicle Code section 23152(b), driving a vehicle with blood alcohol content of .08% or more [BAL .21%], with one prior alcohol-related driving conviction [the June 4, 2002 drunk driving conviction]. Counts One and Three were dismissed in the interests of justice as a part of the plea negotiation. Imposition of sentencing was suspended and the criminal court placed Respondent on probation for 60 months on terms that included 90 days in jail; fees, fines and assessments; 15 days CalTrans; an 18 month program of treatment or counseling pursuant to Health and Safety Code section 11837; restricted driving privilege; and other terms and conditions.

CONCLUSIONS OF LAW:

The facts and circumstances surrounding Respondent's offenses, including his driving with a blood alcohol of .21% in wilful violation of California Vehicle Code section 23152(b), his second DUI offense in less than a year and in violation of his probation for that first conviction, do not involve moral turpitude but do involve other misconduct warranting discipline.

AUTHORITIES SUPPORTING DISCIPLINE:

Standards 1.2, 1.3, 1.4(b), 1.5, 1.6, and 3.4 of the Standards of Attorney Sanctions for Professional Misconduct, Title IV, of the Rules of Procedure of the State Bar of California.

In re Kelly (1990) 52 Cal.3d 487. Attorney convicted of second DUI found culpable of other misconduct warranting discipline. No finding of moral turpitude. Discipline recommended by the Review Department of the State Bar Court and affirmed by the Supreme Court was a public reproof for 3 years with conditions which included a referral to the State Bar's then existing Program on Alcohol Abuse on the condition that the attorney comply with all terms of that program.

SUBSTANCE ABUSE AND MENTAL HEALTH CONDITIONS:

The following conditions are derived from recommendations of a doctor certified by the American Society of Addiction Medicine, after his evaluation of the Respondent.

ABSTINENCE: Respondent shall abstain from the use of any alcoholic beverages, and shall not use or possess any narcotics, dangerous or restricted drugs, controlled substances, marijuana, or associated paraphernalia, except with a valid prescription.

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Reporting of Abstinence to the Office of Probation:

With each written quarterly report or final report required as a condition of this reproof, Respondent shall provide to the Office of Probation a declaration under penalty of perjury regarding his compliance with this Abstinence condition.

ABSTINENCE-BASED SUPPORT MEETINGS: During the period of this reproof Respondent shall attend at least one (1) meeting per week of any acceptable sobriety maintenance program.

Respondent has been advised that he may choose one of any acceptable sobriety maintenance program, including any self-help maintenance programs which includes (i) a subculture to support recovery (meetings); and (ii) a process of personal development that does not have financial barriers. Appropriate 12-step groups are acceptable. Examples of acceptable programs include, without limitation, Alcoholics Anonymous ("AA"), Narcotics Anonymous ("NA"), Rational Recovery ("RR"), Self Management and Recovery Training ("SMART"), Secular Organization for Sobriety ("SOS"); LifeRing; and Right On Programs.

Reporting of Meeting Attendance to the Office of Probation:

With each written quarterly report or final report required as a condition of this reproof, Respondent shall provide to the Office of Probation satisfactory proof of attendance at the above-described meetings. Proof of attendance shall include submission of a writing which clearly provides for each meeting he attends - the date and time of the meeting, name of the meeting, location of the meeting, and which bears the signature of the secretary of the meeting verifying Respondent's attendance at that meeting.

INDIVIDUAL THERAPY: At least one (1) time each calendar quarter during this reproof period, Respondent shall obtain individual therapy from a medical professional certified by the American Society of Addiction Medicine. Respondent shall comply with the treatment recommendations made by this medical professional. Respondent shall provide the medical professional with a copy of this Stipulation no later than his first therapy session.

Release and Waiver:

Respondent shall provide this medical professional with a release waiving rights of privacy and privilege to the extent it authorizes this medical professional to disclose to the Office of Probation information regarding Respondent's frequency of visits, cooperation and compliance with treatment recommendations. Respondent shall provide a copy of this release to the Office of Probation no later than the due date for his first written quarterly report required as a condition of this reproof.

Reporting of Individual Therapy to the Office of Probation

With each written quarterly report or final report required as a condition of this reproof, Respondent shall provide to the Office of Probation a declaration under penalty of perjury regarding his compliance with this Individual Therapy condition. Respondent shall provide the Office of Probation with such satisfactory proof as may be requested by the Office of Probation regarding his compliance with this Individual Therapy condition.

///

Date 3/10/04


Respondent's signature

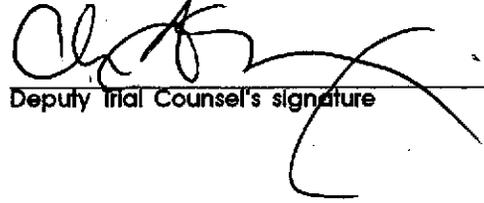
Brad Alan Thornton
print name

Date _____

Respondent's Counsel's signature _____

print name _____

Date 4/1/04


Deputy Trial Counsel's signature

Charles A. Murray
print name

ORDER

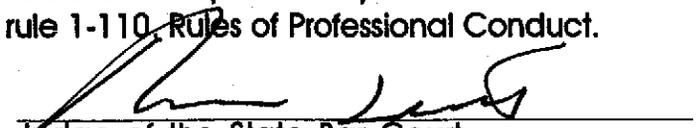
Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproval, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- The stipulated facts and disposition are APPROVED AND THE REPROVAL IMPOSED.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.

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.) Otherwise the stipulation shall be effective 15 days after service of this order.

Failure to comply with any conditions attached to this reproval may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.

Date 4/21/04


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 San Francisco, on April 30, 2004, I deposited a true copy of the following document(s):

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

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:

**BRAD A. THORNTON
268 W DRYDEN ST #118
GLENDALE CA 91202**

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

CHARLES MURRAY, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on April 30, 2004.


Laretta Cramer
Case Administrator
State Bar Court