


ORIGINAL

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| State Bar Court of California Hearing Department <input checked="" type="checkbox"/> Los Angeles <input type="checkbox"/> San Francisco | | |
| Counsel for the State Bar SUZAN J. ANDERSON DEPUTY TRIAL COUNSEL 1149 South Hill Street Los Angeles, CA 90015 (213) 765-1000 Bar # 160559 | Case number(s) 03-0-03759 05-0-02413 | (for Court's use) <div style="text-align: center; font-size: 2em; font-weight: bold;">FILED</div> <div style="text-align: center;">JAN 04 2006</div> <div style="text-align: center;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</div> |
| <input type="checkbox"/> Counsel for Respondent <input checked="" type="checkbox"/> In Pro Per, Respondent JAMES WILLIAM BRAVOS 5022 Santa Monica Ave. San Diego, CA 92107-2814 Bar # 138097 | <div style="text-align: center;"> kwiktag® 022 805 564  </div> | <div style="text-align: center; font-size: 3em; font-weight: bold;">PUBLIC MATTER</div> |
| In the Matter of JAMES WILLIAM BRAVOS Bar # 138097 A Member of the State Bar of California (Respondent) | Submitted to <input type="checkbox"/> assigned judge <input checked="" type="checkbox"/> settlement judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED | |

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted December 77, 1988
(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) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) 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.

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(8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):

- (a) ☐ costs added to membership fee for calendar year following effective date of discipline
- (b) ☒ costs to be paid in equal amounts prior to February 1 for the following membership years:
The following four membership years due to economic hardship
(hardship, special circumstances or other good cause per rule 282, Rules of Procedure)
- (c) ☐ costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
- (d) ☐ costs entirely waived

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 a separate attachment entitled "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.

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- (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 with 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.
See additional facts in mitigation in attachment
- (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.
See additional facts in mitigation in attachment
- (9) ☒ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
See additional facts in mitigation in attachment

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- (10) ☒ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.

See additional facts in mitigation in attachment

- (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 must 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 as set forth in the Financial Conditions form attached to this Stipulation.
- iii. ☐ and until Respondent does the following: _____

The above-referenced suspension is stayed.

2. ☒ Probation.

Respondent is placed on probation for a period of four (4) years, which will commence upon the effective date of the Supreme Court order herein. (See rule 953, California Rules of Court.)

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E. Additional Conditions of Probation:

- (1) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (3) ☒ Within 30 days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (4) ☒ Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, respondent must 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. Respondent must also state in each report whether there are any proceedings pending against him or her in the State Bar Court and, if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must 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 must be assigned a probation monitor. Respondent must 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 must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (6) ☒ Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation 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 must provide to the Office of Probation satisfactory proof of attendance at a session of State Bar Ethics School, and passage of the test given at the end of that session.
- ☐ No Ethics School recommended. Reason: _____
- (8) ☐ Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (9) ☒ The following conditions are attached hereto and incorporated:

- | | |
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| <input type="checkbox"/> Substance Abuse Conditions | <input checked="" type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input checked="" type="checkbox"/> Financial Conditions |

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F. Other Conditions Negotiated by the Parties:

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

☐ **No MPRE recommended. Reason:** _____

- (2) ☐ **Other Conditions:**

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| In the Matter of JAMES WILLIAM BRAVOS | Case Number(s): 03-0-03759; 05-0-02413 |
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Financial Conditions

a. Restitution

- ☒ Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF of the amount(s) paid, plus applicable interest and costs.

| Payee | Principal Amount | Interest Accrues From |
|---------------------|------------------|-----------------------|
| Christopher T. Enge | \$3,712.50 | November 17, 2003 |
| | | |
| | | |
| | | |

- ☒ Respondent must pay the above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than Three (3) years and nine (9) months after the effective date of the discipline therein.

b. Installment Restitution Payments

- ☒ Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

| Payee/CSF (as applicable) | Minimum Payment Amount | Payment Frequency |
|---------------------------|------------------------|-------------------|
| Christopher T. Enge | \$100.00 | monthly |
| | | |
| | | |
| | | |

c. Client Funds Certificate

- ☒ 1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, 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";

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| In the Matter of JAMES WILLIAM BRAVOS | Case Number(s): 03-0-03759; 05-0-02413 |
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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 Office of Probation 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.

d. Client Trust Accounting School

XX Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation 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.

If Respondent attends Client Trust Account School in December 2005 or in February 2006, prior to the effective date of the discipline herein and provides satisfactory proof of attendance and passage of the test given at the end of the session, this condition will be satisfied.

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| In the Matter of JAMES WILLIAM BRAVOS | Case Number(s): 03-0-03759; 05-0-02413 |
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Law Office Management Conditions

- a. ☐ Within ____ days/ ____ months/ ____ years of the effective date of the discipline herein, Respondent must develop a law office management/ organization plan, which must be approved by the Office of Probation. This plan must include procedures to (1) send periodic reports to clients; (2) document telephone messages received and sent; (3) maintain files; (4) meet deadlines; (5) withdraw as attorney, whether of record or not, when clients cannot be contacted or located; (6) train and supervise support personnel; and (7) address any subject area or deficiency that caused or contributed to Respondent's misconduct in the current proceeding.
- b. ☒ Within ____ days/ ____ months 3 years of the effective date of the discipline herein, Respondent must submit to the Office of Probation satisfactory evidence of completion of no less than ____ hours of Minimum Continuing Legal Education (MCLE) approved courses in law office management, attorney client relations and/or general legal ethics. This requirement is separate from any MCLE requirement, and Respondent will 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 must 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 must furnish satisfactory evidence of membership in the section to the Office of Probation of the State Bar of California in the first report required.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: JAMES WILLIAM BRAVOS

CASE NUMBER(S): 03-O-03759, 05-O-02413

FACTS AND CONCLUSIONS OF LAW.

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

CASE NUMBER 03-O-03759

COUNT ONE

FACTS

1. In July 2002, Respondent was employed by Jacquelynn Garry ("Garry") to represent her in a lawsuit filed against her, *Jbliss Imaging Systems, et al. v. Acute Perceptions, Jacquelynn Garry, et al.*, Case Number CV809086, filed on July 1, 2002 in the Superior Court of California, County of Santa Clara (the "lawsuit"). Respondent agreed to represent Garry in the lawsuit.

2. On November 5, 2002, the Court held the first Case Management Conference in the lawsuit. Respondent appeared and was given notice that the next Case Management Conference was scheduled for February 6, 2003 in the lawsuit.

3. On February 6, 2003, Respondent failed to appear for the Case Management Conference scheduled by the Court. At the hearing, the Court ordered that the Case Management Conference be continued to April 3, 2003. The Court properly served notice of the April 3, 2003 hearing on Respondent.

4. In March 2003, Respondent agreed with opposing counsel to submit the lawsuit to mediation. Respondent and opposing counsel scheduled a mediation hearing for April 10, 2003.

5. On April 3, 2003, Respondent failed to appear for the continued Case Management Conference scheduled by the Court. At the hearing, the Court ordered a Trial Setting Conference to be scheduled for May 6, 2003. The Court properly served notice of the May 6, 2003 hearing on Respondent.

6. On April 10, 2003, Respondent and his client failed to appear for the mediation hearing. Another mediation hearing was scheduled for May 6, 2003. Respondent was given notice of the new mediation hearing date.

7. On May 6, 2003, Respondent failed to appear for the continued mediation hearing.

8. On May 6, 2003, Respondent failed to appear for the Trial Setting Conference scheduled by the Court. At the hearing, the Court issued an Order to Show Cause Re Failure to Appear to be held on May 22, 2003, and ordered Respondent to appear at the OSC. The Court properly served notice of the May 22, 2003 hearing and the order for Respondent to appear on Respondent.

9. On May 22, 2003, Respondent failed to appear at the OSC scheduled by the Court. At the hearing, the Court imposed sanctions of \$2227.50 upon Respondent and his client payable to plaintiffs. The Court scheduled the next Case Management Conference for July 8, 2003. The Court properly served notice of the July 8, 2003 hearing on Respondent.

10. On July 8, 2003, Respondent failed to appear for the Case Management Conference scheduled by the Court. At the hearing, the Court imposed sanctions solely against Respondent in the amount of \$2227.50 in addition to \$1485 for a total of \$3,712.50 payable to plaintiffs and their counsel, Christopher Enge. The Court ordered Respondent to pay the sanctions within 21 days of the Order. The Court properly served Respondent with notice of the Court's sanction order.

11. On November 6, 2003, the Court granted plaintiffs' Motion for Summary Adjudication of the Issues on most of the plaintiffs' claims against Garry. Plaintiffs dismissed the remaining claims and judgment was entered on or about November 17, 2003.

LEGAL CONCLUSIONS

By failing to appear for the Case Management Conference on February 6, 2003, the continued Case Management Conference on April 3, 2003, the mediation hearing on April 10, 2003, the May 6, 2003 continued mediation hearing, the May 6, 2003 Trial Setting Conference, the May 22, 2003 OSC hearing and the July 8, 2003 Case Management Conference, Respondent intentionally, recklessly or repeatedly failed to perform legal services with competence in violation of rule 3-110(A) of the Rules of Professional Conduct.

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COUNT TWO

FACTS

12. The allegations of paragraphs 1 through 11 are incorporated by reference.

13. Since the imposition of judicial sanctions against him, Respondent has had knowledge of the sanction order in the lawsuit.

14. To date, Respondent has failed to report the imposition of the judicial sanctions of \$3,712.50 against him, in writing, to the State Bar of California.

LEGAL CONCLUSIONS

By failing to report the sanction order against him, Respondent failed to report, in writing the imposition of judicial sanctions of which he had knowledge to the State Bar of California in wilful violation of Business and Professions Code section 6068(o)(3).

COUNT THREE

FACTS

15. The allegations of paragraphs 1 through 11 are incorporated by reference.

16. To date, Respondent has not paid the sanction order against him to plaintiffs and their counsel in the lawsuit.

LEGAL CONCLUSIONS

By failing to appear at the OSC as ordered by the Court and failing to pay the sanction order within 21 days as ordered by the Court, Respondent wilfully violated orders of the court requiring him to do acts in the course of his profession which he ought to have in good faith done in wilful violation of Business and Professions Code section 6103.

CASE NUMBER 05-O-02413

COUNT FOUR

FACTS

17. At all times mentioned herein, Respondent maintained a client trust account at Wells

Fargo Bank, Account Number 201-7994898 ("Respondent's CTA").

18. In March 2005, Respondent issued checks drawn upon Respondent's CTA against insufficient funds, including:

| <u>CHECK NUMBER</u> | <u>CHECK AMOUNT</u> | <u>DATE PRESENTED</u> | <u>BANK ACTION</u> | <u>ACCOUNT BALANCE</u> |
|-------------------------|-------------------------|---------------------------|------------------------|----------------------------|
| 2808 | \$ 45.50 | 3/1/05 | Paid NSF | -\$ 68.47 |
| 2810 | 45.50 | 3/1/05 | Paid NSF | - 68.47 |
| 2815 | 120.00 | 3/4/05 | Paid NSF | - 254.47 |

LEGAL CONCLUSIONS

By issuing checks drawn upon Respondent's CTA against insufficient funds, Respondent failed to adequately administer his client trust account in wilful violation of rule 4-100(A) of the Rules of Professional Conduct.

COUNT FIVE

FACTS

19. The allegations of paragraphs 17 and 18 are incorporated by reference.

20. During the period of in March 2005 through May 2005, Respondent left personal funds in Respondent's CTA for the payment of office and/or personal expenses as needed.

21. During this same period, Respondent repeatedly made cash deposits into Respondent's CTA for a total of \$1790 as follows: 3/7/05 - cash deposit of \$250; 3/11/05 - cash deposit of \$60; 3/11/05 - cash deposit of \$40; 3/15/05 - cash deposit of 65.00; 5/3/05 - cash deposit of \$180; 5/12/05 - cash deposit of \$30; 5/17/05 - cash deposit of \$140; 5/17/05 - cash deposit of \$30; 5/18/05 - cash deposit of \$120; 5/20/05 - cash deposit of \$300; 5/20/05 - cash deposit of \$205; and 5/24/05 - cash deposit of \$370.

22. In February 2005 through May 2005, Respondent repeatedly issued checks drawn upon Respondent's CTA and authorized electronic debits from Respondent's CTA to pay his office and/or personal expenses as follows:

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| <u>CHECK NUMBER</u> | <u>CHECK AMOUNT</u> | <u>DATE PRESENTED</u> | <u>PAYEE</u> |
|-------------------------|-------------------------|---------------------------|---------------------------|
| Debit | 362.25 | 2/4/05 | Cox Comm/MC acct |
| 2786 | 56.95 | 2/16/05 | Sea World |
| 2797 | 160.85 | 2/22/05 | Sea World |
| 2799 | 684.81 | 2/22/05 | Fry's Electronics |
| 2796 | 8.00 | 2/24/05 | Vaaak Sounds |
| Debit | 216.98 | 4/1/05 | Cox Comm/MC Acct |
| Debit | 60.43 | 4/1/05 | Cox Enterprises/Broadband |

LEGAL CONCLUSIONS

By leaving personal funds in and/or depositing cash into Respondent's CTA for withdrawal as needed to pay office and/or personal expenses, and by issuing checks and authorizing electronic fund withdrawals as needed for personal and/or office expenses, Respondent improperly used his CTA as a personal account and commingled funds belonging to Respondent in a client trust account in wilful violation of Rule 4-100(A) of the Rules of Professional Conduct.

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was November 17, 2005.

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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> |
|-----------------|--------------|---|
| 05-0-02413 | Six | Business and Professions Code section 6068(i) |

AUTHORITIES SUPPORTING DISCIPLINE.

In the Matter of Koehler (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615

Where the Respondent repeatedly misused his trust account as a personal account, twice failed to return unearned advanced costs promptly on request, and failed to perform services competently in one matter, the gravest aspect of the misconduct was that relating to respondent's violation of the rule governing trust accounts and client funds, and this misconduct warranted at least a three-month actual suspension. Where such misconduct was aggravated by prior discipline for neglect of four client matters, and aggravating circumstances predominated over mitigating circumstances, it was appropriate to recommend a three-year stayed suspension, six months actual suspension and five years of monitored probation for the protection of the public.

In the instant case, the facts are less egregious and the mitigation far outweighs the aggravation, in fact there is no aggravation, so all stayed time would be the appropriate discipline to protect the public.

In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871

Respondent deposited personal funds in his client trust account and used those accounts for his personal expenses during a three year period. The Review Department recommended a six month actual suspension.

In the instant case, the misuse of the trust account is only a two month period, much less than the three years in *Doran*. Accordingly, stayed time is appropriate.

Palomo v. State Bar (1984) 36 Cal.3d 785.

An attorney with one prior instance of discipline was found culpable of endorsing a client's name on a \$3,000 check without the client's consent; depositing the proceeds in his payroll account; failing to notify the client and pay over the funds promptly; and misappropriating and commingling the funds. The attorney had endorsed the client's name to the check, but the remaining misconduct resulted from errors by the attorney's office staff rather than any deliberate intent to misappropriate the money. The Supreme Court ordered a one year stayed suspension and one year probation, with no actual suspension.

Waysman v. State Bar (1986) 41 Cal.3d 452

An attorney with no prior record was found culpable of commingling and misappropriating \$24,000 from a single client. The funds were the proceeds of a settlement draft which arrived while the attorney was out of town. The attorney told his secretary to obtain the client's signature and deposit the check into the general office account rather than the trust account because it would clear faster than the latter. When the attorney returned to the office, he found that his secretary had quit, and her departure combined with other circumstances had left his office finances in considerable disarray. In the confusion, \$24,000 in client funds had been spent. At the time of the incident, the attorney suffered from alcoholism. The Supreme Court ordered a six month stayed suspension, and probation for one year and until restitution was made, and no actual suspension.

Vaughn v. State Bar (1972) 6 Cal.3d 847

An attorney's trust account fell below the required balance at least 12 times during a 20-month period. The attorney commingled funds and kept trust fund cash in an envelope in his home. He did not know that he had received some funds because of inefficient office procedures and "chaotic records." The Supreme Court imposed a public reproof.

MITIGATING CIRCUMSTANCES.

FACTS SUPPORTING MITIGATING CIRCUMSTANCES.

Respondent was admitted to the State Bar of California in December 1988 and has no record of prior discipline.

Respondent's misconduct in both cases did not harm any clients: Ms. Garry's case eventually settled and the client trust account violations did not affect any clients.

Respondent has cooperated with the State Bar throughout the pendency of both investigations.

ADDITIONAL MITIGATING CIRCUMSTANCES - Respondent's emotional, family and financial problems.

According to Respondent, Respondent's wife is a meth-amphetamine addict who was prosecuted and convicted approximately 3 years ago of fraud, forgery and burglary in connection with her meth-amphetamine use. Prior to this conviction, she had overcome her addiction and she and Respondent had twins, who are now 12 years old. Respondent's wife then succumbed to

her addiction again for a couple of years. She went into rehab again and was clean and she and Respondent had another child, who is now 9 years old. Respondent's wife again succumbed to her addiction for several more years, but became clean and she and Respondent had another child, who is now 2 years old. Respondent also has a 15 year old child from an earlier marriage.

According to Respondent, at the time of the client trust account misconduct, Respondent's wife had recently left him and the five children for good, about February 2005. Respondent suddenly was faced with complete responsibility for the five children on his own. Emotionally, Respondent had to cope with his own feelings of his wife leaving and deal with all five children's emotional reactions to their mother leaving. Respondent also had to deal with all five children's schedules and make sure they were at school and taken care of as necessary.

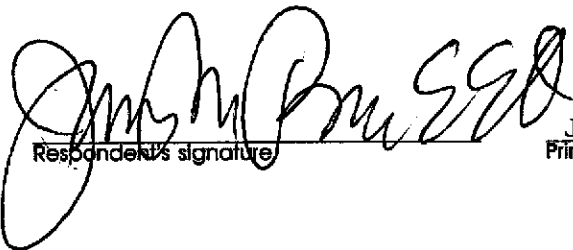

Finally, according to Respondent, with respect to his financial circumstances, Respondent had to cut back on his law practice in order to take care of the five children on his own and was not earning what he was used to earning. Respondent has suffered great financial loss due to his wife's leaving the family.

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| In the Matter of JAMES WILLIAM BRAVOS | Case number(s): 03-0-03759; 05-0-02413 |
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SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law and Disposition.

| | | |
|------------------------|---|------------------------------------|
| Date <u>12/5/05</u> | Respondent's signature  | JAMES WILLIAM BRAVOS Print name |
| Date <u>12/7/05</u> | Respondent's Counsel's signature  | SUZAN J. ANDERSON Print name |

(Do not write above this line.)

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| In the Matter of JAMES WILLIAM BRAVOS | Case number(s): 03-0-03759; 05-0-02413 |
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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.
- ☐ All Hearing dates are vacated.

In the space following A.(8)(b), insert the following: "2007, 2008, 2009 and 2010."

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 135(b), Rules of Procedure.) The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 953(a), California Rules of Court.)

Date

1-3-06


RICHARD A. HONN

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 of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on January 4, 2006, 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:

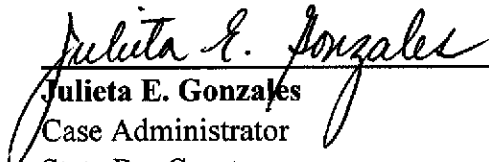
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**JAMES W BRAVOS ESQ
5022 SANTA MONICA AVE
SAN DIEGO, CA 92107-2814**

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

Suzan J. Anderson, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **January 4, 2006**.



Julieta E. Gonzales
Case Administrator
State Bar Court