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| State Bar Court of California | | |
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| Hearing Department <input type="checkbox"/> Los Angeles <input checked="" type="checkbox"/> San Francisco | | |
| PROGRAM FOR RESPONDENTS WITH SUBSTANCE ABUSE AND MENTAL HEALTH ISSUES | | |
| Counsel for the State Bar Cydney Batchelor Deputy Trial Counsel 180 Howard St., 7th Fl. San Francisco, CA 94105 Tele: 415/538-2204 Bar # 114637 | Case Number(s) ORIGINAL 03-0-4008-PEM LODGED DEC 18 2005 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO | (for Court use) FILED DEC 19 2008 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO |
| <input checked="" type="checkbox"/> Counsel for Respondent <input type="checkbox"/> In Pro Per Lindsay Kohut Slatter Attorney at Law 369 Pine St., No. 627 San Francisco, CA 94104 Tele: 415/403-1302 Bar # 72692 | Submitted to Program Judge STIPULATION RE FACTS AND CONCLUSIONS OF LAW <input type="checkbox"/> PREVIOUS STIPULATION REJECTED | |
| In the Matter of RUSSELL A. ROBINSON Bar # 163937 A Member of the State Bar of California (Respondent) | | |

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 4/05/1993
(date)
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, if Respondent is not accepted into the Lawyer Assistance Program, this stipulation will be rejected and will not be binding on Respondent or the State Bar.
- (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, except for Probation Revocation Proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation and order consists of 8 pages.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts." See attached
- (5) Conclusions of law, drawn from and specifically referring to the facts, are also included under "Conclusions of Law." See attached

(Stipulation form approved by SBC Executive Committee 9/18/2002. Revised 12/16/2004)

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- (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 and will pay timely any disciplinary costs imposed in this proceeding.

B. Aggravating Circumstances [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 Action 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" (above)
- (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. See attached
- (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 the victims of his/her misconduct or the State Bar during disciplinary investigation or proceedings.
- (7) **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrong doing or demonstrates a pattern of misconduct.
- (8) **No aggravating circumstances are involved.**

Additional aggravating circumstances:

None

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C. Mitigating Circumstances [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 ~~victim of his misconduct~~ to the State Bar during disciplinary investigation and proceedings. See attached
- (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 of 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 were directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drugs 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.
See attached
- (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.
See attached
- (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.
See attached
- (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:

See attached

ATTACHMENT TO
STIPULATION RE FACTS AND CONCLUSIONS OF LAW

IN THE MATTER OF: **RUSSELL A. ROBINSON**

CASE NUMBERS: **03-O-4008-PEM**

FACTS AND CONCLUSIONS OF LAW.

Facts: At all times relevant to this stipulation, Respondent maintained client trust account number 100-3624911 at Wells Fargo Bank ("client trust account"). On June 16, 2001, John Richardson employed Respondent to represent him in a personal injury matter. On June 16, 2001, respondent and Richardson entered a contingency fee agreement whereby Respondent would be entitled to one-third (33 1/3%) of the settlement prior to the filing of a pretrial statement and if the claim settled after the filing of a pre-trial statement, or after a trial setting conference or after Alternative Dispute Resolution, then Respondent would be entitled to forty percent (40%) of the settlement. The parties understood that respondent's attorney fee would not be based on the property damage settlement.

On June 12, 2003, Richardson's case settled for the sum of \$25,000.00 and \$2,000.00 for property damage, a grand total of \$27,000.00. The case did not go to trial. However, Respondent prepared a complete mediation brief (a copy of which has been provided to the State Bar in substantiation), and a pre-trial statement as a case management statement. Therefore, Respondent was entitled to a fee of forty percent of \$25,000.00, or \$10,000.00. In addition, Respondent was entitled to reimbursement, at most, of \$918.32 in costs he had expended in the case. On June 19, 2003, Respondent deposited Richardson's settlement check in the amount of \$27,000.00 into his client trust account. As of June 19, 2003, Respondent was thus holding \$16,081.68 for the benefit of Richardson (\$27,000.00 (-) \$10,000.00 (-) \$918.32 = \$16,081.68). Thereafter, Respondent made two disbursements on behalf of Richardson. First, on June 27, 2003, Respondent disbursed the sum of \$2,008.00 per Richardson's instructions. Second, on August 11, 2003, Respondent disbursed \$500.00 per Richardson's instruction's, to George Akin, for the care of Richardson's son. After these disbursements, Respondent should have maintained the sum of \$13,573.68 for the benefit of Richardson in his client trust account (\$16,081.68 (-) \$2,008.00 (-) \$500.00 = \$13,573.68).

Between June 19, 2003 and October 8, 2003, Respondent misappropriated the \$13,573.68 to his own use and purpose. Specifically, by October 8, 2003, Respondent removed all but \$90.57 from his trust account for his own use and purpose. Although he did not do so until after the intervention of the State Bar, Respondent paid \$9611.22 in restitution to Mr. Richardson in February 2004, and also paid a medical lien in the amount of \$3962.46 on his behalf in December 2004, for a total of \$13,573.68.

Conclusions of Law: By willfully misappropriating \$13,573.68 from Mr. Richardson's settlement to his own use and benefit, Respondent engaged in conduct involving moral turpitude, in violation of Business and Professions Code section 6106.

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(6), was October 14, 2005.

AGGRAVATING CIRCUMSTANCES.

Facts Supporting Aggravating Circumstances:

Significant Harm: Mr. Richardson was deprived of the use of most of his settlement funds from June 2003 until December 2004, and some of the settlement funds continue due and owing to Mr. Richardson at this time.

MITIGATING CIRCUMSTANCES.

Facts Supporting Mitigating Circumstance:

Candor and Cooperation: Through counsel, Respondent has been candid and cooperative with the State Bar in resolving this matter.

Marital and Financial Problems: At the time of the misconduct, Respondent was in the process of obtaining a marital dissolution, and was suffering severe financial difficulties in supporting two families at the same time that his law practice was not financially stable.

Legal and Community Service: Respondent has provided documentation to the State Bar which substantiates that he has provided 20 hours service per month to the Ella Baker Center for Human Rights since 1999; that he has taught two classes per year, Federal Trial Litigation and Trial Advocacy, at Stanford Law School in the academic years 2003-2004 and 2004-2005; and that he taught Trial Advocacy at Golden Gate Law School for several years between 1997-2002.

ADDITIONAL MITIGATING CIRCUMSTANCES.

No Prior Record of Discipline: Although the misconduct stipulated to herein is extremely serious, it should be noted that Respondent had been admitted to practice for 10 years at the time of the misconduct, with no prior record of discipline.

Restitution: Although he did not do so until after the intervention of the State Bar, Respondent paid \$9611.22 in restitution to Mr. Richardson in February 2004, and also

paid a medical lien in the amount of \$3962.46 on his behalf in December 2004, for a total of \$13,573.68.

Participation in Lawyer's Assistance Program. On February 16, 2005, Respondent contacted the State Bar Lawyer Assistance Program ("LAP") and completed the intake process. On February 21, 2005, Respondent signed a pre-enrollment assessment agreement with LAP. Respondent was then assessed and monitored for a period of time by the LAP. At the conclusion of the process, Respondent entered into a long-term participation plan with LAP on July 26, 2005.

RESTITUTION.

Respondent waives any objection to immediate payment by the State Bar Client Security Fund upon a claim or claims for the principal amounts of restitution set forth below.

In accordance with the timetable set forth in the State Bar Court alternative discipline program contract to be executed between the State Bar Court and Respondent on the captioned cases, Respondent must make restitution as follows:

John Richardson, interest on \$13,573.68 from July 1, 2003 until December 1, 2004, at the rate of 10% per annum, until paid in full and furnish satisfactory evidence of restitution to the State Bar Court and the Office of Probation.

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| In the Matter of RUSSELL A. ROBINSON | Case number(s): 03-0-4008-PEM |
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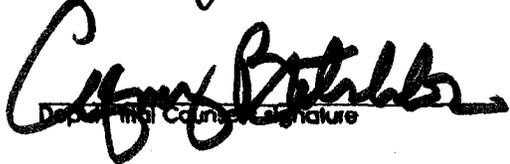
SIGNATURE OF THE PARTIES

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 and Conclusions of Law.

Respondent enters into this stipulation as a condition of his/her participation in the Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Program Contract.

If the Respondent is not accepted into the Program or does not sign the Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

If the Respondent is accepted into the Program, upon Respondent's successful completion of or termination from the Program, this Stipulation will be filed and the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Statement Re: Discipline shall be imposed or recommended to the Supreme Court.

| | | |
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| 4 04 2005 Date |  Respondent's signature | RUSSELL A. ROBINSON Print name |
| 10-4-2005 Date |  Respondent's Counsel's signature | LINDSAY K. SLATTER Print name |
| 10/14/05 Date |  Departmental Counsel's signature | CYDNEY BATCHELOR Print name |

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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 stipulation as to facts and conclusions of law is APPROVED.
- The stipulation as to facts and conclusions of law is APPROVED AS MODIFIED as set forth below.
- All court dates in the Hearing Department are vacated.

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; or 3) Respondent is not accepted for participation in the Program or does not sign the Program Contract. (See rule 135(b) and 802(b), Rules of Procedure.)

Dec 19, 2005
Date

Cat McEleny
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 December 19, 2005, I deposited a true copy of the following document(s):

**CONFIDENTIAL STATEMENT OF ALTERNATIVE DISPOSITIONS AND ORDERS
(Rules Proc. of State Bar, rule 803 (a))**

STIPULATION RE FACTS AND CONCLUSIONS OF LAW

**CONTRACT AND WAIVER FOR PARTICIPATION IN THE STATE BAR COURT'S
ALTERNATIVE DISCIPLINE PROGRAM**

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

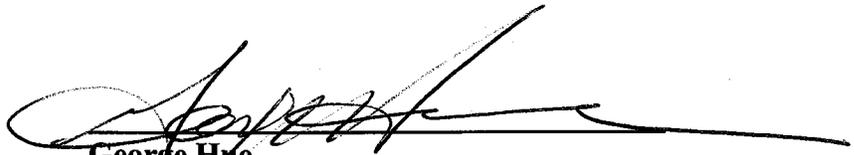
by personally delivering such documents to the following individuals at 180 Howard Street, 6th Floor, San Francisco, California 94105-1639:

CYDNEY BATCHELOR

LINDSAY KOHUT SLATTER

RUSSELL A. ROBINSON

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **December 19, 2005.**



George Hue
Case Administrator
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 San Francisco, on March 10, 2009, I deposited a true copy of the following document(s):

**DECISION AND ORDER SEALING DOCUMENTS
STIPULATION RE FACTS AND CONCLUSIONS OF LAW**

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:

**RUSSELL A. ROBINSON
LAW OFC RUSSELL A ROBINSON
536 MAGNOLIA AVE GROUND FL
PIEDMONT, CA 94611**

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

MARK HARTMAN , Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on March 10, 2009.


Laurretta Cramer
Case Administrator
State Bar Court