

CONFIDENTIAL ORIGINAL

(Do not write above this line.)

State Bar Court of California  
Hearing Department

PROGRAM FOR RESPONDENTS WITH SUBSTANCE ABUSE OR MENTAL HEALTH ISSUES

Counsel For The State Bar <b>CHARLES A. MURRAY</b> Deputy Trial Counsel 1149 South Hill Street Los Angeles, California 90015 Bar # 146069 Tel: (213) 765-1236	Case Number (s)  04-O-14789  07-J-10362	(for Court's use) <b>LODGED</b>  FEB 26 2008  STATE BAR COURT CLERK'S OFFICE LOS ANGELES
Counsel for Respondent <b>ARTHUR L. MARGOLIS</b> Margolis & Margolis LLP 2000 Riverside Drive Los Angeles, California 90039 Bar # 57703 Tel: (323) 953-8996	<div style="text-align: center;"> <b>FILED</b>           JAN 13 2010           STATE BAR COURT          CLERK'S OFFICE          LOS ANGELES       </div>	
In the Matter Of:  <b>BRENDAN PATRICK BRADY</b>  Bar # 106771  A Member of the State Bar of California (Respondent)	Submitted to: <b>CLERK'S OFFICE LOS ANGELES</b>  <b>STIPULATION RE FACTS AND CONCLUSIONS OF LAW</b>  <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 21, 1982.
- (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 the 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 consists of (8) pages, excluding the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts." -See Attachment
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law". -See Attachment
- (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 [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:
- (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 <sup>20 years</sup> ~~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.

(Do not write above this line.)

- (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.
- (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:**

**ATTACHMENT TO ADP STIPULATION**  
**RE FACTS & CONCLUSIONS OF LAW**

IN THE MATTER OF:       BRENDAN P. BRADY, State Bar No. 106771

CASE NUMBER:           04-O-14789 & 07-O-10362

**PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A.(6), August 31, 2007.

**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 that s he has otherwise committed acts of misconduct warranting discipline, as follows:

**04-O-14789**

**FACTS:**

1.       On May 20, 2002, Cecilia Haupt ("Haupt") employed Respondent to represent her in a claim for personal injuries that she sustained in an automobile accident that occurred on May 14, 2002. Respondent agreed to represent Haupt on a contingency fee basis of 25% if the matter resolved prior to filing a lawsuit, 33 1/3% if it resolved at least 90 days before the first trial date, 37% if it resolved within 90 days of the trial date, and 40 % if it is resolved after the commencement of trial.
2.       On May 14, 2003, Respondent filed a complaint in Los Angeles County Superior Court entitled *Cecilia Haupt v. Regina Phillips, et al.*, case no. GC031942 ("Haupt action").
3.       On January 27, 2004, defendant Regina Phillips ("Phillips") propounded Form Interrogatories, Set No. One; Special Interrogatories, Set No. One; and Demand to Produce Documents and Material for Inspection and Copying, Set No. One (collectively referred to as "discovery") on Haupt by serving it on Respondent. Respondent received the discovery.
4.       At no time did Respondent respond to the discovery propounded by Phillips.
5.       On April 1, 2004, Phillips filed and served a motion to compel responses to discovery ("motion to compel") with a hearing set for April 29, 2004, which was subsequently continued to May 26, 2004, and then to June 15, 2004. Respondent received the motion to compel and notices of the continuances.
6.       At no time did Respondent respond to the motion to compel.
7.       On June 15, 2004, Respondent failed to appear at the hearing on the motion to compel. On this date, the court ordered Haupt to provide answers to discovery within 10 days, and also imposed sanctions of \$972.30 jointly and severally against Respondent and Haupt payable to Phillips within 30 days. Phillips' attorney served a notice of the court's order on Respondent. Respondent received the notice of the court's order.
8.       Thereafter, Respondent failed to respond to discovery or pay the sanctions.
9.       On July 16, 2004, Phillips filed and served a motion to dismiss the Haupt action for failure to comply with the court's order requiring her to provide answers to discovery and to pay sanctions ("motion to dismiss") with a hearing date set for August 31, 2004. Respondent received the motion to dismiss.

10. At no time did Respondent respond on behalf of Haupt to the motion to dismiss.
11. On August 31, 2004, Respondent appeared at the motion to dismiss and the court granted Phillips' motion and dismissed the Haupt action.
12. Thereafter, Respondent did not take any steps to have the dismissal in Haupt action set aside.
13. On September 6, 2004, Respondent informed Haupt that her case had been dismissed by the court because he "dropped the ball."
14. On September 16, 2004, Haupt employed attorney Clifford Blackman ("Blackman") to set aside the dismissal.
15. On December 6, 2004, Blackman filed a motion to set aside the dismissal in the Haupt action.
16. On January 11, 2005, the court set aside the dismissal in the Haupt action.
17. At no time did Respondent inform Haupt that the court had ordered her to provide answers to discovery or that she was ordered to pay sanctions for failure to comply with discovery.
18. At no time did Respondent pay any portion of the sanctions imposed by the court for failure to comply with discovery.
19. On December 6, 2004, Blackman filed a motion for an order allowing him to substitute in as Haupt's attorney of record in place of Respondent and for an order requiring Respondent to provide Haupt's file to Blackman.
20. On January 11, 2005, the court granted Blackman's motion and ordered Respondent to provide Haupt's file to Blackman. Blackman served a copy of the court's order on Respondent. Respondent received a copy of the court's order.
21. At no time did Respondent provide Haupt's file to Blackman.
22. On October 12, 2004, the State Bar opened an investigation, case no. 04-O-14789, pursuant to a complaint filed by Haupt ("Haupt complaint").
23. On December 8, 2004, a State Bar Investigator wrote to Respondent regarding the Haupt complaint. On January 13, 2005, June 5, 2005, and July 7, 2005, the investigator wrote to Respondent again regarding the Haupt complaint.
24. The December 8, 2004, January 13, 2005, June 5, 2005, and July 7, 2005 letters were placed in sealed envelopes addressed to Respondent at his State Bar of California membership records address. The letters were mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business on or about the date on each letter. The United States Postal Service did not return the investigator's letters as undeliverable or for any other reason. Respondent received these letters.
25. The investigator's letters requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Haupt complaint.
26. On August 16, 2005, Respondent contacted the investigator by telephone and stated that he would provide a written response to the investigator's letters within one week. Thereafter, Respondent did not respond to the allegations.

## CONCLUSIONS OF LAW:

27. By failing to respond to the discovery; failing to respond the motion to compel; failing to appear at the motion to compel; failing to respond to the motion to dismiss; allowing the Haupt action to be dismissed; and failing to take any action to set aside the dismissal, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in wilful violation of Rules of Professional Conduct, rule 3-110(A).

28. By failing to inform Haupt that the court had ordered her to provide answers to discovery and that she was ordered to pay sanctions for failure to comply with discovery, Respondent wilfully failed to keep a client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services, in wilful violation of Business and Professions Code, section 6068(m).

29. By failing to pay any portion of the sanctions imposed by the court and by failing provide Haupt's file to Blackman, Respondent wilfully disobeyed or violated an order of the court requiring him to do or forbear an act connected with or in the course of Respondent's profession which he ought in good faith to do or forbear in wilful violation of Business and Professions Code, section 6103.

30. By not providing a written response to the allegations in the Haupt complaint or otherwise cooperate in the investigation of the Haupt complaint, Respondent failed to cooperate in a disciplinary investigation, in wilful violation of Business and Professions Code, section 6068(i).

J  
07-Ø-10362

## PROFESSIONAL MISCONDUCT IN A FOREIGN JURISDICTION

### FACTS:

31. On August 28, 2006, the United States Bankruptcy Court, Central District of California ordered that Respondent be disciplined upon findings that Respondent had committed professional misconduct in that jurisdiction as set forth in the Memorandum of Disciplinary Proceeding. Thereafter, the decision of the foreign jurisdiction became final.

32. A copy of the Notice of Disciplinary Charges, including as exhibits a certified copy of the final order of disciplinary action of the foreign jurisdiction and copy of the statutes, rules or court orders of the foreign jurisdiction found to have been violated by Respondent, is attached as Exhibit 1 and incorporated by reference.

33. As a matter of law, Respondent's culpability determined in the proceeding in the other jurisdiction warrants the imposition of discipline in the State of California under the laws or rules binding upon members of the State Bar at the time the member committed misconduct in such other jurisdiction; and the proceedings of the other jurisdiction provided fundamental constitutional protection.

34. Respondent's culpability under applicable California rules and statutes was for wilful violations of Rules of Professional Conduct, rules 3-110(A) and 3-700(D)(2), and Business and Professions Code section and 6103.

### CONCLUSIONS OF LAW:

- (A) By failing to appear for his clients at a Section 341(a) bankruptcy proceeding, and failing to communicate with and adequately represent his clients Perrone and Green,

to the point the clients were forced to employ new counsel, Respondent intentionally, recklessly or repeatedly failed to perform legal services with competence in wilful violation of Rules of Professional Conduct, rule 3-110(A);

- (B) By failing to disgorge \$3,250 of advanced fees paid to him by his clients after Respondent failed to appear for his clients at a Section 341(a) bankruptcy proceeding, and failing to communicate with and adequately represent his clients Perrone and Green, to the point the clients were forced to employ new counsel, even after he had stipulated with the U.S. Trustee to return \$400 and was ordered by the U.S. Bankruptcy Court to return the remaining \$2,850, Respondent failed to promptly refund a fee paid in advance that he had not earned, in wilful violation of Rules of Professional Conduct, rule 3-700(D)(2);
- (C) By not disgorging the \$400 in fees as ordered by the Court on August 24, 2004; and, by not disgorging the \$2,850 in fees and pay the \$100 contempt fine as ordered by the Court on August 24, 2005; Respondent wilfully disobeyed or violated a court order requiring him to do or forebear doing an act connected with the in the course of the profession, which in good faith he ought do or forebear, in wilful violation of Business & Professions Code section 6103.

**AGGRAVATION:**

**HARM:** In the Haupt matter, Respondent's inaction resulted in the dismissal of the client's action, though the client was able to hire new counsel who was able to set aside the dismissal. However, Haupt failed to return the client file to Haupt's new counsel.

In the Perrone & Green matter, Respondent failed to perform services for and communicate with his clients to the point they were forced, even while under the financial stress of a bankruptcy, to employ new counsel without the return of their fees as ordered by the court.

**INDIFFERENCE:** Respondent's failure to return Haupt her file and, his failure to appear at or participate in the disciplinary proceeding against him in Federal Court, demonstrates an indifference toward rectification of or atonement for the consequences of his misconduct.

**MITIGATION:**

**NO PRIOR DISCIPLINE:** No record of discipline in over 20 years of the practice of law.

**CANDOR & COOPERATION:** Respondent displayed candor and cooperation to the State Bar in these proceedings.

**RESTITUTION:**

Respondent shall pay to Charlene Perrone and Joel Green, or the Bankruptcy Trustee, or the Client Security Fund ("CSF"), as appropriate, the principal sum of \$400 plus interest at the rate of ten percent (10%) per annum from August 24, 2004.

Respondent shall pay to Charlene Perrone and Joel Green, or the Bankruptcy Trustee, or the Client Security Fund ("CSF"), as appropriate, the principal sum of \$2,850 plus interest at the rate of ten percent (10%) per annum from August 24, 2004.

Respondent shall pay to Cecilia Haupt, Regina Phillips or her counsel, or the Client Security Fund ("CSF"), as appropriate, the principal sum of \$972.50 plus interest at the rate of ten percent (10%) per annum from June 15, 2004.

(Do not write above this line.)

In the Matter of BRENDAN PATRICK BRADY Member #106771	Case number(s): 04-O-14789 07-J-10362
---	---

### SIGNATURE OF THE PARTIES

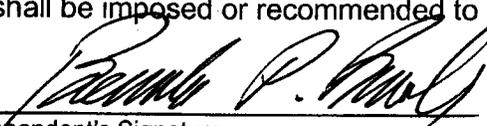
By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts and Conclusions of Law.

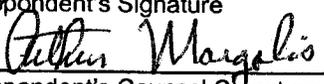
Respondent enters into this stipulation as a condition of his/her participation in the Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Program Contract.

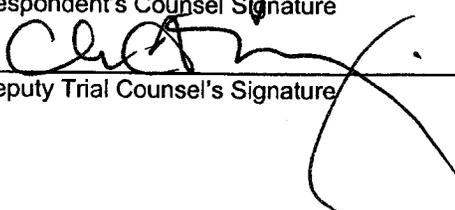
If the Respondent is not accepted into the Program or does not sign the Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

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.

9-5-2007  
Date  
9/5/07  
Date  
9/5/07  
Date

  
\_\_\_\_\_  
Respondent's Signature  
BRENDAN P. BRADY  
Print Name

  
\_\_\_\_\_  
Respondent's Counsel Signature  
ARTHUR L. MARGOLIS  
Print Name

  
\_\_\_\_\_  
Deputy Trial Counsel's Signature  
CHARLES A. MURRAY  
Print Name

(Do not write above this line.)

In the Matter Of BRENDAN PATRICK BRADY Member #106771	Case Number(s): 04-O-14789 07-J-10362
---	---

**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.)

Date

2/22/08

Judge of the State Bar Court

**RICHARD A. PLATEL**