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State Bar Court of California

Hearing Department ☒ Los Angeles ☐ San Francisco

Counsel for the State Bar BROOKE A. SCHAFER Deputy Trial Counsel 1149 South Hill Street, 9th Floor Los Angeles, CA 90015-2299 Telephone: (213) 765-1000 Bar # 194824	Case number(s) 05-C-01102-JMR	(for Court's use) PUBLIC MATTER FILED OCT 0 6 2005 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
☒ Counsel for Respondent ☐ In Pro Per, Respondent MICHAEL E. WINE 301 N. Lake Avenue, Suite 800 Pasadena, California 92832 Telephone: (626) 796-6688 Bar # 58657	Submitted to ☐ assigned judge ☒ settlement judge (RAH)	
In the Matter of KEITH L. MILBRANDT Bar # 64405 A Member of the State Bar of California (Respondent)	STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING REPROVAL ☐ PRIVATE ☒ PUBLIC ☐ 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 June 27, 1975 (date)

(2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.

(3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation, and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation and order consist of 11 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.

(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 (public reproval)

(b) ☐ case ineligible for costs (private reproval)

(c) ☐ costs to be paid in equal amounts for the following membership years:
2006
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)

(d) ☐ costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"

(e) ☐ costs entirely waived

(9) The parties understand that:

(a) ☐ A private reproval 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 inquires and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproval 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 reproval 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 reproval 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 94-H-18082

(b) ☒ Date prior discipline effective 3/10/95

(c) ☒ Rules of Professional Conduct/ State Bar Act violations: RPC 1-110

(d) ☒ Degree of prior discipline Private Reproval, 12 months.

(e) ☒ If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline".

See Attached.

(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 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.

(Do not write above this line.)

(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:

(Do not write above this line.)

D. Discipline:

(1) ☐ Private reproval (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 reproval (check applicable conditions, **if any**, below)

E. Conditions Attached to Reproval:

(1) ☒ Respondent must comply with the conditions attached to the reproval for a period of 60 months, may be shortened by court order (see attached).

(2) ☒ During the condition period attached to the reproval, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.

(3) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office 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.

(4) ☒ 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.

(5) ☒ Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the condition period attached to the reproval. 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 the reproval 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 thirty (30) days, that report must 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.

* Quarterly Reports shall only be required for first 12 months of Reproval period.

(6) ☐ 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 such reports as may be requested, in addition to quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the monitor.

(7) ☒ 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 conditions attached to the reproval.

(8) ☒ Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance of the Ethics School and passage of the test given at the end of that session.

☐ No Ethics School ordered. Reason: _____

(9) ☒ 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 required to be filed with the Office of Probation.

(10) ☐ 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 of the effective date of the reproval.

☒ No MPRE ordered. Reason: No record of client harm or involvement.

(11) ☐ The following conditions are attached hereto and incorporated:

☐ Substance Abuse Conditions ☐ Law Office Management Conditions

☐ Medical Conditions ☐ Financial Conditions

F. Other Conditions Negotiated by the Parties:

See attachment re: LAP condition.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAWAND DISPOSITION

IN THE MATTER OF: **KEITH L. MILBRANDT** (Respondent"), SB#64405

CASE NUMBER: **05-C-1102**

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(6), was September 15, 2005.

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.

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 statues and/or Rules of Professional Conduct, or has otherwise committed acts of misconduct warranting discipline:

Facts and Circumstances Warranting Discipline

On February 7, 2005, an officer monitoring traffic on Kearny Mesa Road in San Diego noticed Respondent illegally making a left turn in violation of a posted sign forbidding left turns. The officer stopped the vehicle and observed signs of intoxication; Respondent also admitted to have been drinking earlier that evening. Following admission of field sobriety tests Respondent was taken into custody. A BAC test showed a blood alcohol content of .14%.

The San Diego City Attorney's office charged Respondent with DUI. On April 18, 2005, Respondent pled guilty to Vehicle Code section 23152(b), DUI (driving with blood alcohol content of .08% or more). Respondent was sentenced to five (5) years summary probation with 180 days in custody of sheriff suspended for five (5) years and standard alcohol conditions. Respondent was also ordered to complete certain programs and submit to a license restriction.

This was Respondent's third DUI conviction, although due to the time since his previous DUI the instant conviction was treated as a first offense.

Conclusion of Law

The facts and circumstances surrounding Respondent's conviction for DUI, violation of Vehicle Code section 23152(a), does not involve moral turpitude but constitutes other misconduct warranting discipline, pursuant to Business and Professions Code section 6101.

AGGRAVATING CIRCUMSTANCES, cont'd.

Prior Discipline

In addition to the prior discipline noted on page 2 of this Stipulation, Respondent has the following:

Case No. 91-C-06904: Effective November 1, 1993. Violation: Business and Professions Code section 6068(a), other misconduct warranting discipline following a October 1, 1991 conviction to a misdemeanor violation of Vehicle Code section 23152(a), driving under the influence of alcohol/drugs. Discipline: Private reproval.

LAWYERS' ASSISTANCE PROGRAM AND WAIVERS OF CONFIDENTIALITY

(A) Respondent shall, within thirty (30) days of entering into this stipulation, enroll in the State Bar's Lawyers' Assistance Program ("LAP"). Respondent shall participate in, and maintain compliance with, LAP treatment conditions for a period of sixty (60) months. Respondent shall cooperate with the LAP in the evaluation and treatment processes as LAP determines necessary. Should Respondent successfully complete LAP prior to sixty (60) months this section shall be satisfied upon LAP's determination of successful completion.

(B) Respondent has been informed and understands that LAP participation may likely involve costs to be borne by him. These costs can include, without limitation, cost of initial evaluation, group meetings, additional therapy meetings and in some cases intensive in-patient treatment in another state. Respondent has had opportunity to consult with his attorney and with LAP regarding cost issues, and knowingly, voluntarily and intelligently agrees to this participation LAP condition.

(C) Respondent will provide LAP with waivers of confidentiality as necessary to monitor compliance with this condition. Said waivers shall allow LAP to provide information to the Office of Probation, State Bar Court, Office of Chief Trial Counsel and Respondent's medical providers. Respondent acknowledges that said waivers will include, without limitation, the ability of LAP to provide status updates (oral or written) as to his progress and compliance in LAP.

(D) Respondent waives objections to court orders necessary to carry out this LAP provision, including without limitation an order referring him to LAP.

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LENGTH OF THIS REPROVAL PERIOD

The length of this period of public reproval shall be sixty (60) months, or until the State Bar Court ends it upon a determination of successful completion of LAP. However, notwithstanding the foregoing the length of the period of public reproval shall be a minimum of twenty-four (24) months, regardless of LAP status.

/// end of attachment ///

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In the Matter of	Case number(s):
KEITH L. MILBRANDT Bar # 64405	05-C-01102-JMR

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.

9/22/05 Date	Respondent's signature	KEITH L. MILBRANDT Print name
9/26/05 Date	Respondent's Counsel's signature	MICHAEL E. WINE Print name
Sept 27, 2005 Date	Deputy Trial Counsel's signature	BROOKE A. SCHAFER Print name

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In the Matter of	Case number(s):
KEITH MILBRANDT	05 C 01102 JMR

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.
- ☐ All Hearing dates are vacated.

On page 2, paragraph A, item (7) box (a) under costs to be paid, the listed year is deleted and replaced with "2007."

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 futher 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.

10/3/05
Date

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 San Francisco, on October 6, 2005, 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 San Francisco, California, addressed as follows:

MICHAEL E. WINE
301 N LAKE AVE STE 800
PASADENA CA 91101 5113

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

BROOKE SCHAFER, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **October 6, 2005**.

Lauretta Cramer
Case Administrator
State Bar Court