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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 Michael J. GLASS 1149 S. HILL STREET LOS ANGELES, CA 90015 (213) 765-1254 Bar # 102700 | Case number(s) 05-0-00905 <div style="text-align: center; font-size: 2em; font-weight: bold;">PUBLIC MATTER</div> kwiktag® 022 603 381  | (for Court's use) <div style="font-size: 1.5em; font-weight: bold;">FILED</div> JAN 26 2006 STATE BAR COURT CLERK'S OFFICE LOS ANGELES |
| <input type="checkbox"/> Counsel for Respondent <input checked="" type="checkbox"/> In Pro Per, Respondent DAVID MILTON BROWNE 21800 BURBANK BLVD. #200 WOODLAND HILLS, CA 91364 Bar # 93576 | Submitted to <input checked="" type="checkbox"/> assigned judge <input 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 | |
| In the Matter of DAVID MILTON BROWNE Bar # 93576 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 December 16, 1980
(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 ____ 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:
2007, 2008, and 2009
(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.
- (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) **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.

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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.
- (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 one (1) year

- 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 one (1) year, 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:

- Substance Abuse Conditions Law Office Management Conditions
- Medical Conditions 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 DAVID MILTON BROWNE | Case Number(s): 05-0-00905 |
|---|-------------------------------|

Law Office Management Conditions

- a. Within ___ days/ ___ months/ 1 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 1 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 DAVID MILTON BROWNE
CASE NUMBER 05-O-00905

FACTS AND CONCLUSIONS

Respondent David Milton Browne ("Respondent") admits the following facts are true and that he is culpable of violation of the Rules of Professional Conduct and the Business and Professions Code.

Case No. 05-O-00905

1. In or about October 2001, Herman Padilla ("Padilla") employed Respondent to defend Padilla in a civil lawsuit entitled *Barnes v. Padilla*, Los Angeles County Superior Court Case No. GC028815.
2. On or about October 29, 2001, Respondent filed an answer on Padilla's behalf, and a cross-complaint against Plaintiff Barnes and other cross-defendants, including Eric Rockey ("Rockey").
3. On or about January 30, 2002, Rockey filed a cross-complaint against Padilla which was properly served on Respondent.
4. On or about March 27, 2002, Plaintiff Barnes properly served Respondent with Plaintiff's Motion to Compel Interrogatory Responses from Padilla. Respondent failed to respond to Plaintiff's Motion to Compel Interrogatory Responses from Padilla. On or about April 10, 2002, the court held a hearing on Plaintiff's Motion to Compel Interrogatory Responses from Padilla. Respondent failed to appear at the motion. The motion was granted and Padilla was ordered to answer Plaintiff's Interrogatories within 10 days. Respondent received the order but failed to answer Plaintiff's Interrogatories within 10 days.
5. On or about April 19, 2002, Cross-complainant Rockey entered cross-defendant Padilla's default on Rockey's cross-complaint and Respondent was served with the Notice of Default.
6. In or about May 2001, Plaintiff's counsel served Respondent with a Notice of Padilla's Deposition for June 19, 2002. On June 19, 2002, Respondent informed Plaintiff's counsel that Padilla's deposition would not go forward. Respondent agreed to pay Plaintiff's counsel the \$140 court reporter fee.
7. On July 16, 2002, Respondent's \$140 check was not honored due to insufficient funds. Plaintiff's counsel and Respondent's bank advised Respondent that the check was not honored due to insufficient funds and Respondent refused to make good on the check.
8. On or about July 24, 2002, Respondent received a Notice of Status Conference for July 29, 2002. On or about July 29, 2002, Respondent failed to appear at the Status Conference. The court scheduled an Order to Show Cause Hearing and Further Status Conference for August 8, 2002 and sent notice to Respondent. On or about August 8, 2002, Respondent failed to appear at the Order to Show Cause Hearing and Further Status Conference which resulted in the court striking Padilla's answer and cross-complaint.

9. On or about October 2, 2002, the court entered judgment against Padilla after default. On or about October 17, 2002, Respondent filed a Motion to Set Aside Default Judgments against Padilla under Code of Civil Procedure section 437(b)(1) ad (2).

10. On or about November 20, 2002, the court granted Respondent's motion to set aside the default and judgements against Padilla. The court also ordered the moving parties to pay \$2,000 in sanctions to Plaintiff. Respondent appeared at the motion and was served with a notice of the court's ruling.

11. In or about October 2003, Plaintiff's counsel filed a small claims action against Respondent in the Orange County Small Claims Court, entitled Steingraber v. Browne, Case No. 03CS006040, in order to obtain payment of the sanctions and the \$140 court reporter fees. Respondent was served with the small claims action.

12. On or about December 18, 2003, the Small Claims Court entered judgment against Respondent in the amount of \$2,552. On or about March 19, 2005, Respondent paid plaintiff's counsel \$2,952.

Conclusions of Law

By failing to respond to Rocky's cross-complaint, failing to respond to plaintiff's motion to compel Padilla's responses to interrogatories, failing to appear at plaintiff's motion to compel Padilla's responses to interrogatories, failing to promptly pay plaintiff's counsel \$140 for court reporter fees, failing to appear at the status conference, and failing to appear at the Order to Show Cause Hearing re sanctions, 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.

PENDING PROCEEDINGS

The disclosure date referred to on page one, paragraph A.(7) was December 14, 2005.

COST OF DISCIPLINARY PROCEEDINGS

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of December 14, 2005, the estimated prosecution costs in this matter are approximately \$1,636.00. Respondent acknowledges that this figure is an estimate only and it does not include State Bar costs which will be included in any final cost assessment. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

The parties stipulate that the costs are to be paid in three equal amounts, one third being added to and becoming a part of the membership fees for each of the years 2007, 2008, and 2009.

AUTHORITIES SUPPORTING DISCIPLINE

Standard 2.4(b) provides that "Culpability of a member of wilfully failing to perform services in an individual matter or matters not demonstrating a pattern of misconduct or culpability of a member of wilfully failing to communicate with a client shall result in reproof or suspension depending upon the extent of the misconduct and the degree of harm to the client.

In *Doyle v. State Bar* (1976) 15 Cal. 3d 973, in one matter, the attorney was employed to probate

the estate of the client's mother. The attorney failed to perform by taking four and one half years to obtain the decree of final distribution of the estate. In another matter, the attorney was employed to file an action for injunction and damages on behalf of a client. The attorney stated that the lawsuit would be filed in 30 days, and accepted a retainer of \$1500. The attorney never filed the lawsuit or refunded the retainer fee. The court imposed discipline consisting of a three year stayed suspension, three years probation. In mitigation, the attorney had no prior record of discipline over 14 year of practice. Additionally, the attorney displayed candor, cooperation and remorse throughout the proceedings.

In *Taylor v. State Bar* (1974) the attorney failed to perform in a personal injury matter by failing to tell the client that he was active entering military service and not completing the personal injury matter. The attorney failed to tell the client to get a new attorney, or return the file to the client. In another matter the attorney practiced law while on suspension for failure to pay membership fees. The court imposed discipline consisting of a three month actual suspension. In mitigation, the attorney had no prior discipline over 9 years of practice.

AGGRAVATING CIRCUMSTANCES

Under Standard 1.2(b)(iv), Respondent's misconduct significantly harmed a client, the public or the administration of justice because the client's answer and cross-complaint were stricken, Respondent failed to obey court orders to respond to interrogatories and pay sanctions, and Respondent failed to pay the court ordered sanctions and the court reporter fee until Plaintiff's counsel commenced a small claims action,.

MITIGATING CIRCUMSTANCES

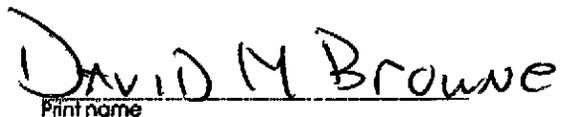
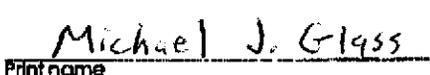
Under Standard 1.2(e)(i), Respondent has no prior record of discipline since his admission to the State Bar of California on December 16, 1980 (i.e. no prior discipline over 25 years of practice).

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| In the Matter of DAVID MILTON BROWNE | Case number(s): 05-0-00905 |
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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.

| | | |
|------------------|---|--|
| 12/20/05 Date |  Respondent's signature IN PRO PER |  Print name |
| Date | Respondent's Counsel's signature | Print name |
| 1/5/06 Date |  Deputy Trial Counsel's signature |  Print name |

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| In the Matter of DAVID MILTON BROWNE | Case number(s): 05-0-00905 |
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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.

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

1/26/06



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 26, 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:

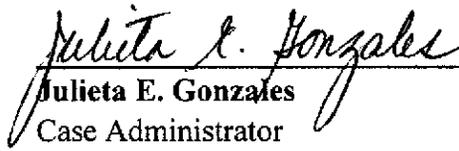
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**DAVID M BROWNE ESQ
21800 BURBANK BLVD #200
WOODLAND HILLS, CA 91364**

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

Michael J. Glass, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **January 26, 2006**.



Julieta E. Gonzales
Case Administrator
State Bar Court