

(Do not write above this line.)

State Bar Court of California Hearing Department Los Angeles		
<p>Counsel For The State Bar</p> <p>Jean Cha Deputy Trial Counsel 1149 S. Hill Street Los Angeles, California 90015 (213) 765-1000</p> <p>Bar # 228137</p>	<p>Case Number (s) 05-O-01451-RAP</p>	<p>(for Court's use)</p> <div style="text-align: center; font-size: 24px; font-weight: bold; margin-top: 20px;">FILED</div> <div style="text-align: center; font-weight: bold; margin-top: 5px;">NOV 30 2006</div> <div style="text-align: center; font-weight: bold; margin-top: 5px;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</div> <div style="position: absolute; top: 50px; right: 50px; font-size: 24px; font-weight: bold; opacity: 0.5;">PUBLIC MATTER</div>
<p>In Pro Per Respondent</p> <p>Russell H. Takasugi 1791 Erringer Road, #202 Simi Valley, California 93065 (805) 583-5400</p>	<p>Submitted to: Settlement Judge</p>	
<p>Bar # 118792</p> <p>In the Matter Of: Russell H. Takasugi</p>	<p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p>	
<p>Bar # 118792</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	

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 11, 1985**.
- (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 consists of **12** pages, not including the order.
- (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."

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004.)

Actual Suspension

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- (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):
- until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
 - costs to be paid in equal amounts prior to February 1 for the following membership years: **2008 & 2009** (hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
 - costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
 - 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 **00-O-13793 & 00-O-14652**
 - (b) Date prior discipline effective **December 20, 2001**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **Rules of Professional Conduct, rule 3-110(A) and Business and Professions Code, section 6068(m).**
 - (d) Degree of prior discipline **Public Reprimand**
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below.

State Bar Court Case # 94-O-19509. Date prior discipline effective February 8, 1996. Rules of Professional Conduct rule 3-110(A), 3-700(A)(2), 3-700(D)(2), and Business and Professions Code section 6068(m) violations. Degree of prior discipline Private Reprimand.

- (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.

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004.)

Actual Suspension

(Do not write above this line.)

Additional aggravating circumstances:

None

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) **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

None.

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:

(b) The above-referenced suspension is stayed.

(2) **Probation:**

Respondent must be placed on probation for a period of **two (2) years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 953, Calif. Rules of Ct.)

(3) **Actual Suspension:**

(a) Respondent must be actually suspended from the practice of law in the State of California for a period of **thirty (30) days**.

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:

E. Additional Conditions of Probation:

(1) If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.

(2) During the probation period, 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 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.

(4) Within thirty (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 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 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.

- (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 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.
- (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 probation conditions.
- (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 at a session of the Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. 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 to be filed with the Office of Probation.

- (10) The following conditions are attached hereto and incorporated:

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

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 during the period of actual suspension or within one year, whichever period is longer. **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) **Rule 955, California Rules of Court:** Respondent must comply with the requirements of rule 955, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.

- (3) **Conditional Rule 955, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 955, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) **Other Conditions:**

Continuing Legal Education.

Respondent shall successfully complete six (6) hours of live-instruction continuing legal education (CLE) courses in the areas of law office management and/or attorney-client relations. Respondent shall provide proof of completion within six (6) months of the effective date of the disciplinary order imposed as a result of this stipulation re facts, conclusions of law and disposition to the Office of Probation of the State Bar of California.

The six (6) hours of continuing legal education courses shall not count toward Respondent's completion of California's Minimum Continuing Legal Education (MCLE) requirements.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: **RUSSELL H. TAKASUGI**

CASE NUMBER: **05-O-01451-RAP**

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that he is culpable of wilfully violating Business and Professions Code section 6068(i), by failing to cooperate and participate in a disciplinary investigation pending against Respondent.

1. On March 28, 2005, the State Bar opened an investigation, case number 05-O-01451 (the "investigation matter").
2. On June 23, 2005 and August 3, 2005, a State Bar investigator wrote to Respondent regarding the investigation matter. The investigator's letters were placed in their respective sealed envelopes correctly addressed to Respondent at his State Bar of California membership records address. The letters were properly mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business. The United States Postal Service did not return the investigator's letter as undeliverable or for any other reason. Respondent received the letters.
3. The letters requested that Respondent respond in writing to specific allegations of misconduct being investigated by the State Bar in the investigation matter. Respondent did not respond to the investigator's June 23, 2005 or August 3, 2005 letters or otherwise communicate with the investigator.
4. On October 14, 2005, the investigation matter was reassigned to another State Bar investigator (the "second investigator").
5. On October 17, 2005, the second investigator called Respondent at his State Bar membership records telephone number. The second investigator asked Respondent if he had received the State Bar's letters and if he intended to respond to them. Respondent informed the second investigator that he had received the letters but that he could not locate his complete files in the matter from file storage. The second investigator and Respondent discussed the allegations and Respondent indicated he would respond to the letters and send the second investigator some additional information after retrieving his files.

6. On December 21, 2005, when the second investigator had not received any written response or documentation from Respondent, the second investigator wrote to Respondent again regarding the investigation matter. The second investigator's letter was placed in a sealed envelope correctly addressed to Respondent at his State Bar of California membership records address. The letter was properly mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business. The United States Postal Service did not return the second investigator's letter as undeliverable or for any other reason. Respondent received the letter.

7. The second investigator's December 21, 2005 letter again requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the investigation matter. Respondent did not respond in writing to the second investigator's December 21, 2005 letter or otherwise communicate with the investigator after the October 17, 2005 telephone conversation.

8. By failing to provide a written response to the allegations in the investigation matter or otherwise cooperate or participate in the investigation of the investigation matter, Respondent failed to cooperate in a disciplinary investigation in wilful violation of Business and Professions Code section 6068(i).

9. After the Notice of Disciplinary Charges was filed, Respondent eventually located his complete files in the matter. Respondent provided the State Bar all relevant documentation and information. However, Respondent should have responded in writing to the State Bar in response to the letters sent out by the investigators prior to the filing of the Notice of Disciplinary Charges.

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was October 19, 2006.

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-O-01451	One	Rules of Professional Conduct rule 3-110(A)
05-O-01451	Two	Rules of Professional Conduct rule 3-700(A)(2)
05-O-01451	Three	Business and Professions Code section 6068(m)

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of October 18, 2006, the estimated prosecution costs in this matter are approximately \$3,654.00. Respondent acknowledges that this figure is an estimate only and that it does not include incidental expenses (see Bus. & Prof. Code section 6068.10(c)) or taxable costs (see C.C.P. section 1033.5(a)) which will be included in a 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.

AUTHORITIES SUPPORTING DISCIPLINE.

Business and Professions Code section 6068(i) makes a failure to cooperate with a State Bar investigation independent grounds for discipline. (*In the Matter of Lilley* (1991) 1 Cal. State Bar Ct. Rptr. 476, 488.)

Where there is a violation of Business and Professions Code section 6068(i), disbarment or suspension is appropriate where the gravity of the offense or the harm, if any, to the victim, is weighed against the purposes of imposing discipline as set forth in Standard 1.3 of the Standards for Attorney Sanctions for Professional Misconduct of the Rules of Procedure of the State Bar of California, div. IV ("Standard"). (Standard 2.6(a).) The purposes of sanctions for professional misconduct are the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession. (Standard 1.3.) In order to properly fulfill the purposes of lawyer discipline, we must review the nature and extent of the facts and circumstances surrounding the misconduct in assessing the level of discipline warranted by Respondent's misconduct. (*Tarver v. State Bar* (1984) 37 Cal.3d 2122, 133, 207 Cal.Rptr. 302, 688 P.2d 911; *Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111.) Here, Respondent failed to cooperate in a State Bar investigation. The gravity of this offense is serious because it is the duty of an attorney to cooperate and participate in any disciplinary investigation or other regulatory or disciplinary proceeding pending against the attorney. The factors in mitigation are outweighed by the two reprovls.

Pursuant to Standard 1.7(a), where a respondent has a record of prior discipline, further findings of professional misconduct by that respondent warrant the imposition of further discipline which is greater than that imposed in the prior proceeding. Since the prior proceeding was a reprovl, the appropriate sanction is suspension. Standard 1.7(b) calls for disbarment where a respondent has a prior record of two disciplinary proceedings. However, there is no case law supporting disbarment where the third disciplinary proceeding is a failure to cooperate with a State Bar investigation. Disbarment cases usually pertain to more egregious misconduct and commonly where there is more than one client matter. Also, Respondent's priors were both reprovls. Thus, Standard 1.7(b) is severe in these circumstances. Based on the facts and circumstances

surrounding this matter, thirty (30) days of actual suspension and two (2) years of probation with a two-year stayed suspension is adequate to protect the public.

OTHER CIRCUMSTANCES.

Since the filing of the Notice of Disciplinary Charges, Respondent has been highly cooperative. Respondent has finally provided information to satisfy the State Bar's underlying inquiry. Respondent has acknowledged his misconduct. Respondent now recognizes his responsibility for the correspondence sent to his office and understands his duties as a member to participate in a State Bar investigation. Respondent understands that it is of the utmost importance to promptly and attentively respond to State Bar investigations in writing. Respondent now understands that verbal responses to State Bar investigations may be insufficient when a request for a written response is made.

STATE BAR ETHICS SCHOOL.

Because Respondent has agreed to attend State Bar Ethics School as part of this stipulation, Respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School.

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In the Matter of Russell H. Takasugi	Case number(s): 05-0-01451-RAP
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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 Fact, Conclusions of Law and Disposition.

11/8/06 *R. Takasugi* Russell H. Takasugi
Date Respondent's Signature Print Name


Nov. 9, 2006 *Justin Kitano* Jean Cha
Date Deputy Trial Counsel's Signature Print Name

(Do not write above this line.)

In the Matter of Russell H. Takasugi	Case number(s): 05-0-01451-RAP
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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 Fact, Conclusions of Law and Disposition.

_____ Date	_____ Respondent's Signature	Russell H. Takasugi Print Name
_____ Date	_____ Respondent's Counsel Signature	_____ Print Name
11-13-06 Date	 Deputy Trial Counsel's Signature	Jean Cha Print Name

(Do not write above this line.)

In the Matter of Russell H. Takasugi	Case number(s): 05-0-01451-RAP
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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.)

11/29/06
Date


Judge of the State Bar Court

Judge Honn

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 November 30, 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:

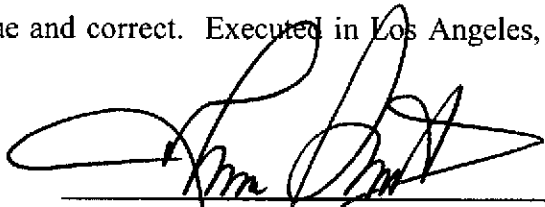
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**RUSSELL H. TAKASUGI
1791 ERRINGER RD #202
SIMI VALLEY, CA 93065**

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

JEAN CHA , Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **November 30, 2006.**



Johnnie Lee Smith
Case Administrator
State Bar Court