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**State Bar Court of California
Hearing Department
Los Angeles**

Counsel For The State Bar Suzan J. Anderson 1149 S. Hill Street Los Angeles, CA 90015 Bar # 160559	Case Number (s) 05-O-01956 05-O-03607 07-O-10192	(for Court's use) <div align="center"> FILED NOV 14 2007 <i>YK</i> STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div> <div align="center" style="font-size: 2em; font-weight: bold;">PUBLIC MATTER</div>
In Pro Per Respondent Kaveh Ardalan 1851 E. 1 st Street, #900 Santa Ana, CA 92705 714-972-4914 Bar # 188775	Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input checked="" type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter Of: KAVEH ARDALAN Bar # 188775 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 **June 3, 1997**.
- (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 **20** 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."
- (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: **meaning the two billing cycles following the effective date of the Supreme Court Order.**
(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 **04-O-14645**
 - (b) ☒ Date prior discipline effective **January 1, 2006**
 - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: **4-100(A), 6106**
 - (d) ☒ Degree of prior discipline **6 months suspension stayed, 1 year probation.**
 - (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. **Please see attachment, page 17.**
- (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. **Please see attachment, page 16.**
- (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. **Please see attachment, pages 16 - 17.**
- (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

Please see attachment, page 17.

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:

(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 9.18, California Rules of Court)

(3) ☒ **Actual Suspension:**

(a) ☒ Respondent must be actually suspended from the practice of law in the State of California for a period of **six (6) months**.

- 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: **Respondent attended Ethics School and passed the test given at the end of that session on June 21, 2007.**
- (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 checked="" 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 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
- ☒ No MPRE recommended. Reason: **Please see attachment.**
- (2) ☒ **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, 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.

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- (3) ☐ **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, 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:**

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Attachment language begins here (if any):

Please see attachment pages 9 – 19.

In the Matter of
KAVEH ARDALAN

Case number(s):
05-O-01956
05-O-03607
07-O-10192

A Member of the State Bar

Law Office Management Conditions

- a. ☐ Within days/ months/ 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/6 months/ 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 6 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: KAVEH ARDALAN

CASE NUMBER(S): 05-O-01956, 05-O-03607, 07-O-10192

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.

CASE NUMBER 05-O-01956

COUNT ONE

FACTS

1. In June 2001, Mina Saidi ("Saidi") employed Respondent to represent her and her minor daughter, Sharin, in a personal injury claim arising out of an automobile accident that occurred on November 14, 2000. The retainer agreement signed by Respondent and Saidi stated that Respondent would be compensated on a contingency fee basis.

2. At all relevant times herein, Saidi possessed uninsured motorist coverage with Mercury Insurance Company ("Mercury").

3. On June 19, 2001, Respondent filed an Uninsured Motorist Claim with Mercury on behalf of Saidi and her daughter.

4. On June 17, 2004, counsel for Mercury served Respondent with form interrogatories and requests for production of documents for Saidi and her daughter. Although Respondent received the form interrogatories and the requests for production of documents, he failed to respond to either.

5. On June 18, 2004, counsel for Mercury filed a petition to assign a case number and allow discovery in an uninsured motorist claim in Orange County Superior Court entitled, *Mercury Insurance Company v. Saidi*, case number 04CC01112 (the "uninsured motorist case").

6. Prior to December 2004, counsel for Mercury properly served a Notice of Deposition

to take the Deposition of Saidi and her daughter on Respondent. Respondent did not notify Saidi or her daughter of the deposition notices and no one appeared at the properly noticed depositions scheduled by counsel for Mercury.

7. On December 6, 2004, counsel for Mercury filed three motions to compel in the uninsured motorist case; one to compel the depositions of Saidi and her daughter, one to compel responses to the form interrogatories and one to compel the production of documents pursuant to the request for production of documents. Respondent was properly served with all three motions, but failed to respond to any of the three.

8. On January 4, 2005, the Orange County Superior Court granted all three motions to compel filed by counsel for Mercury and ordered Respondent to pay \$900 in sanctions to counsel for Mercury.

9. In February 2005, the depositions of Saidi and her daughter were completed by counsel for Mercury with Respondent appearing on behalf of Saidi and her daughter.

10. On March 31, 2005, May 10, 2005 and June 9, 2005, counsel for Mercury wrote to Respondent requesting that Respondent cooperate in scheduling an arbitration hearing for the uninsured motorist case. Although Respondent received all three letters, he did not respond. Counsel for Mercury also made repeated telephone calls to Respondent's office in March, April, May and June of 2005, leaving messages regarding the scheduling of the arbitration hearing. Respondent did not respond to the telephone messages.

11. On May 20, 2005, counsel for Mercury properly served Respondent with supplemental interrogatories and a supplemental request for production of documents for Sharin. Respondent did not respond to the supplemental discovery served by counsel for Mercury.

12. On July 6, 2005, Respondent spoke with counsel for Mercury and agreed to have one of several retired judges, including Judge Robert Jameson, serve as an arbitrator at the arbitration of the uninsured motorist case.

13. On July 7, 2005, counsel for Mercury wrote to Respondent to advise him that Mercury was agreeable to the appointment of Judge Jameson and requested that Respondent confirm in writing that Judge Jameson would be acceptable to Saidi and her daughter. Although Respondent received the letter, he did not respond.

14. On July 9, 2005, counsel for Mercury wrote to Respondent advising Respondent that Mercury's subpoena of Saidi's records from the Employment Development Department was objected to by the facility. Counsel for Mercury enclosed an authorization for the records to be signed by Saidi and requested that Respondent return the executed authorization to Mercury.

Although Respondent received the letter, Respondent failed to have Saidi execute the authorization and failed to return the authorization to Mercury.

15. On August 12, 2005, counsel for Mercury wrote to Respondent and advised Respondent that the arbitration hearing could not go forward until Respondent agreed in writing to an arbitration. Although Respondent received the letter, he did not respond.

16. On October 20, 2005, counsel for Mercury wrote to Respondent and requested that he contact counsel so the uninsured motorist claim could be either arbitrated or settled. Although Respondent received the letter, he did not respond.

17. To date, the uninsured motorist claim has not been arbitrated or settled. Respondent has taken no action to prosecute the matter on behalf of Saidi and her daughter.

CONCLUSIONS OF LAW

By failing to respond to Mercury's discovery, failing to provide the executed authorization on behalf of Saidi to Mercury, failing to cooperate with counsel for Mercury in either settling Saidi's case or scheduling the arbitration hearing, and failing to take any other action to prosecute the matter on behalf of Saidi and her daughter, Respondent intentionally, recklessly or repeatedly failed to perform legal services with competence in wilful violation of rule 3-110(A) of the Rules of Professional Conduct.

COUNT TWO

FACTS

18. The stipulated facts of paragraphs 1 through 17 are incorporated herein.

19. By failing to either settle Saidi's and her daughter's case or cooperate with Mercury in scheduling the arbitration hearing, Respondent effectively withdrew from representation of Saidi and her daughter.

20. At no time did Respondent inform Saidi that he was withdrawing from employment in Saidi's case. Nor did Respondent take any other steps to avoid reasonably foreseeable prejudice to his clients.

CONCLUSIONS OF LAW

By failing to take the necessary steps to complete Saidi's and Sharin's cases, failing to inform Saidi and Sharin of his intent to withdraw from employment, and failing to take any other

steps to avoid prejudice to his clients, Respondent wilfully failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to his client in wilful violation of rule 3-700(A)(2) of the Rules of Professional Conduct.

COUNT THREE

FACTS

21. The stipulated facts of paragraphs 1 through 17 are incorporated herein.

22. Between February 2005 and April 2005, Saidi repeatedly telephoned Respondent's office at the telephone number he gave her to inquire about the status of her case. Each time, Saidi left a message for Respondent requesting that Respondent return her call regarding the status of her case.

23. Respondent did not respond to any of Saidi's telephone messages.

CONCLUSIONS OF LAW

By failing to respond at all to Saidi's telephone messages, Respondent failed to respond to a client's reasonable status inquiries in wilful violation of section 6068(m) of the Business and Professions Code.

CASE NUMBER 05-O-03607

COUNT FOUR

FACTS

24. In or about 2000, Gholam H. Shojai ("Shojai") employed Respondent to pursue a property damage claim against Farmer's Insurance Exchange ("Farmers"). On that date, Respondent and Shojai executed a retainer agreement for Shojai's case.

25. On February 11, 2002, Respondent filed a complaint on behalf of Shojai in Orange County Superior Court, entitled *Gholam Shojai v. Farmers Insurance Exchange*, case number 02CC02680.

26. On December 17, 2002, Respondent dismissed case number 02CC02680 as the case had been scheduled for trial and Respondent and Shojai were not ready for trial.

27. On January 17, 2003, Respondent filed another complaint on behalf of Shojai in

Orange County Superior Court, entitled *Gholam Shojai v. Farmers Insurance Exchange*, case number 03CC01811.

28. On April 4, 2003, the Court granted a demurrer filed by Farmers and gave Respondent 20 days leave to amend.

29. On April 25, 2003, Respondent filed the First Amended Complaint on behalf of Shojai in Orange County Superior Court.

30. In September 2003, the Judge in the Shojai matter determined the case was one of limited jurisdiction and transferred the case to North Court in Fullerton, which changed the case number to 03NL42572.

31. In July 2004, Farmers filed a Motion for Summary Judgment in the Shojai matter. Respondent was properly served with the motion.

32. Respondent failed to timely file an opposition to the Motion for Summary Judgment filed by Farmers, and the Court refused to consider the tardy opposition.

33. On August 20, 2004, the Court granted Farmers' Motion for Summary Judgment, and on September 8, 2004 a Notice of Entry of Judgment in favor of Farmers was filed in the Shojai matter and the case was dismissed.

30. In August 2004, Farmers properly noticed Shojai's deposition for August 22, 2004. Respondent and Shojai appeared for Shojai's deposition of August 22, 2004. The deposition was not completed that day and was continued to August 23, 2004 while Respondent was present at the deposition, because Notice of Entry of Judgment in favor of Farmers had not yet been signed by the Court.

31. On August 23, 2004, Respondent did not appear for the second day of Shojai's deposition.

CONCLUSIONS OF LAW

By failing to appear for the second day of Shojai's deposition and failing to timely file the opposition to Farmers Motion for Summary Judgment which was not considered by the Court thereby allowing Shojai's case to be dismissed, Respondent intentionally, recklessly or repeatedly failed to perform legal services with competence in wilful violation of Rule 3-110(A) of the Rules of Professional Conduct.

COUNT FIVE

FACTS

35. The stipulated facts of paragraphs 24 through 31 are incorporated herein.

36. Between September 2004 and August 2005, Shojai left several telephone messages for Respondent at the telephone number which Respondent gave him, always requesting a return call regarding the status of Shojai's case. Respondent received the telephone messages but did not respond.

37. On September 26, 2005 and October 19, 2005, Shojai sent letters to Respondent requesting contact regarding the status of his case. Respondent received the letters, but did not respond.

38. Shortly thereafter, Shojai employed new counsel for his case.

CONCLUSIONS OF LAW

By failing to respond to Shojai's telephone messages and letters, Respondent failed to respond promptly to reasonable status inquiries of a client in wilful violation of Business and Professions Code section 6068(m).

CASE NUMBER 07-O-10192

COUNT SIX

FACTS

39. On December 2, 2005, the Supreme Court of California issued an Order imposing discipline ("Disciplinary Order") on Respondent in case number S137450. In the Disciplinary Order, the Court placed Respondent on one (1) year probation subject to conditions of probation recommended by the Hearing Department of the State Bar court in its Order Approving Stipulation in State Bar Court case number 04-O-14645. Respondent was properly served with the Disciplinary Order. On January 1, 2006, the Disciplinary Order became effective.

40. On or about December 9, 2005, a Probation Deputy with the Office of Probation of the State Bar of California ("Office of Probation"), sent a letter to Respondent enclosing a copy of the Disciplinary Order and the conditions of his probation. The Probation Deputy's letter was placed in a sealed envelope correctly addressed to Respondent at his State Bar of California

membership records address. The letter was 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 Probation Deputy's letter as undeliverable or for any other reason. Respondent received the Probation Deputy's letter.

41. Pursuant to the Disciplinary Order, the terms and conditions of probation imposed on Respondent included the following:

a. Contact the Office of Probation by January 30, 2006. Respondent did not contact the Office of Probation until January 5, 2007, after receiving a copy of a letter sent to the State Bar Court regarding Respondent's non-compliance with the MPRE condition of his probation.

b. Submit quarterly reports to the Office of Probation commencing with an April 10, 2006 report and continuing on July 10, 2006, October 10, 2006 and a final report due January 1, 2007. Respondent has not complied in that his quarterly reports due April 10, 2006, July 10, 2006, October 10, 2006 and January 1, 2007, have not been filed to date.

c. By January 1, 2007, provide the Office of Probation with satisfactory proof of attendance at a session of the State Bar Ethics School, and passage of the test given at the end of that session. To date, Respondent has not provided the Office of Probation with proof of his attendance at State Bar Ethics School, and passage of the test given at the end of the session.

d. By January 1, 2007, provide the Office of Probation with satisfactory proof of attendance at a session of State Bar Client Trust Accounting School, and passage of the test given at the end of the session. To date, Respondent has not provided the Office of Probation with proof of his attendance at State Bar Client Trust Accounting School, and passage of the test given at the end of the session.

42. On June 6, 2006, per Respondent's request, the Office of Probation sent a facsimile copy of the initial probation letter dated December 9, 2005, with attachments to Respondent at the facsimile number he provided to the Office of Probation. The transmittal record indicates that fourteen (14) pages were successfully faxed to Respondent. Respondent received the facsimile.

43. On January 5, 2007, Respondent called the Probation Deputy and informed her that he received a copy of the Office of Probation's letter to the State Bar Court regarding his non-compliance with the MPRE condition of his probation. The Probation deputy inquired if Respondent had complied with the other conditions of his probation (State Bar Ethics School, State Bar Client Trust Account School, and quarterly reports). Respondent said he had not complied, and asked what he could do to comply. The Probation Deputy suggested that

Respondent might want to file a Motion for Extension, sign up for State Bar Ethics School, State Bar Client Trust Account School, and send in his quarterly reports. Respondent said he would send the quarterly reports to the Office of Probation by January 8, 2007. To date, the Office of Probation has not received any quarterly reports from Respondent.

LEGAL CONCLUSIONS

By not contacting the Office of Probation by January 30, 2006, by not filing the quarterly reports due April 10, 2006, July 10, 2006, October 10, 2006 and the final report due January 1, 2007, by not providing proof of attendance and passage of the test at State Bar Ethics School, by not providing proof of attendance and passage of the test at State Bar Client Trust Account School, Respondent failed to comply with the conditions of his probation in the Disciplinary Order issued by the Supreme Court of California in case number S137450 in wilful violation of Business and Professions Code section 6068(k).

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was November 8, 2007.

MITIGATING CIRCUMSTANCES.

FACTS SUPPORTING MITIGATING CIRCUMSTANCES.

Respondent has cooperated fully with the State Bar, has discussed all issues at length and is eager to comply with all conditions.

Case numbers 05-O-01956 and 05-O-03670

Between January 2004 and June 2004, Respondent and his long-standing girlfriend of many years were attending couples therapy to attempt to save their relationship from issues which arose between them. In late June 2004, Respondent and his girlfriend terminated the relationship. Respondent continued treating with a therapist throughout 2004 to deal with issues regarding the termination of the relationship, his girlfriend's three suicide attempts after June 2004, and his girlfriend's suicide in late 2004. Respondent's therapist advised him to see a psychiatrist after his girlfriend's suicide.

In early 2005, Respondent treated with a psychiatrist who prescribed Welbutrin for Respondent. Respondent took the Welbutrin for approximately 60 days, but discontinued after that because the side effects were too much for him. Respondent was experiencing severe mood

swings from the Welbutrin, going from depression to manic anxiety during this time. When Respondent discontinued the Welbutrin, he no longer experienced the side effects. Respondent continued treating with a therapist for several months until he overcame the problems associated with his girlfriend.

Respondent has informed the State Bar that the events experienced with his girlfriend were very disruptive and emotional for Respondent in 2004 (and the attempt to resolve the problems Respondent experienced with the prescription of Welbutrin in 2005), the time of Respondent's misconduct. Respondent believes he is now recovered from all of the experiences with his girlfriend and the side effects of the Welbutrin and has a better handle on his law practice. Due to the passage of time, the grieving process which Respondent experienced with the assistance of professionals, it appears that these extraordinary personal circumstances were an aberrational cause of Respondent's distraction in his law practice.

Case Number 07-O-10192

Respondent attempted to take and pass the MPRE prior to the termination of his probationary period as ordered in the prior discipline, but was unable to pass it on the first attempt. Accordingly, Respondent was suspended from the practice of law from February 12, 2007 through April 16, 2007. That suspension was terminated when he actually passed the MPRE.

AGGRAVATING CIRCUMSTANCES.

FACTS SUPPORTING AGGRAVATING CIRCUMSTANCES

In case number 05-O-01956, Ms. Saidi's and her daughter's cases have been in limbo due to Respondent's failure to perform and they have not had a resolution of their cases. *As of 11/8/07 KA these cases have been resolved. sj*

In case number 05-O-03607, Mr. Shojai had to employ a new attorney to resolve his case due to Respondent's failure to perform.

AUTHORITIES SUPPORTING DISCIPLINE.

The stipulated discipline of one year stayed suspension and two years probation to include six months actual suspension and conditions is consistent with the Standards for Attorney Sanctions for Professional Misconduct ("Standards") and the relevant case law.

Pursuant to Standard 1.3, the primary purposes of disciplinary proceedings and imposing 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 1.6(b)(2) provides that where there are compelling mitigating circumstances, a lesser degree of sanction than the appropriate sanction shall be imposed or recommended.

Standard 1.7(a) provides that when a member is found culpable of professional misconduct in any proceeding in which discipline may be imposed and the member has a record of one prior imposition of discipline, the degree of discipline imposed in the current proceeding shall be greater than that imposed in the prior proceeding unless the prior discipline imposed was so remote in time to the current proceeding and the offense for which it was imposed was so minimal in severity that imposing greater discipline in the current proceeding would be manifestly unjust.

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 will fully 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.

Standard 2.6 (a) provides that culpability of a member for a violation of Business and Professions Code 6068 shall result in disbarment or suspension depending on the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3.

The Supreme Court gives the Standards “great weight,” and will reject a recommendation consistent with the Standards only where the Court entertains “grave doubts” as to its propriety. *In re Naney* (1990) 51 Cal. 3d 186, 190; *see also In re Silverton* (2005) 36 Cal. 4th 81, 91, 92. Further, although the Standards are not mandatory, it is well established that the Standards may be deviated from only when there is compelling, well-defined reason to do so. *See Aronin v. State Bar* (1990) 52 Cal. 3d 276, 291; *see also Bates v. State Bar* (1990) 52 Cal. 3d 1056, 1060, fn. 2.

The State Bar recognizes that the Standards should not be applied in a talismanic fashion. *Gary v. State Bar* (1988) 44 Cal. 3d 820, 828. However, Respondent bears the burden to demonstrate that the State Bar should deviate from the Standards.

In *Van Sloten v. State Bar* (1989) 48 Cal.3d 921, the member was employed to handle an uncontested divorce. When his client’s spouse stopped cooperating, and despite efforts of his client to contact him, Van Sloten simply discontinued work. At hearing he received a public reproof. The Review Department increased the discipline to two years stayed. The Supreme Court reduced it to six months stayed, noting that it was a failure to perform **without** serious consequences to the client.

In the matter of *Harris v. State Bar* (1990) 51 Cal.3d 1082, the member failed to perform in one client matter, but over a four-year period. In contrast with *Van Sloten*, the conduct of Harris caused substantial harm to the client. Harris was suspended for three years, including ninety (90) days of actual suspension.

In the matter of *Calvert v. State Bar* (1991) 54 Cal.3d 765, the member failed to communicate with a client and failed to perform with competence in one matter. Although the member had a prior for similar misconduct, he had a substantial record of pro bono activities and community service which was considered in mitigation. Calvert was suspended for three years, stayed, and placed on probation for one year with conditions to include a 60 day actual suspension.

In the matter of *Potack v. State Bar* (1991) 54 Cal.3d 132, the Supreme Court found that the members violation of his probation warranted the Review Department's recommendation that the prior order of stayed suspension be set aside.

In the instant matter, Respondent has violated all the conditions of his prior disciplinary probation and has two client matters in which he failed to perform competently and failed to communicate with his clients. For the probation violation matter, the prior order of stayed suspension is being set aside, although the two months Respondent has already spent on actual suspension due to his failure to take and pass the MPRE is being taken into consideration, which would warrant four months actual suspension for the probation violation. In addition, the two client matters warrant sixty days actual suspension, bringing the total actual suspension to six months, well within the Standards and the above-cited case law.

MULTISTATE PROFESSIONAL RESPONSIBILITY EXAMINATION EXCLUSION.

It is recommended that respondent not be required to take the Multistate Professional Responsibility Examination because he was ordered to take and pass the examination on January 1, 2006, in connection with his prior discipline in case number 04-O-14645 and has taken and passed the MPRE in April 2007.

(Do not write above this line.)

In the Matter of KAVEH ARDALAN	Case number(s): 05-O-01956 05-O-03607 07-O-10192
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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.

<u>11/08/2007</u> Date	<u>K. Arda</u> Respondent's Signature	<u>KAVEH ARDALAN</u> Print Name
<u>11/8/07</u> Date	<u>Suzan J. Anderson</u> Deputy Trial Counsel's Signature	<u>SUZAN J. ANDERSON</u> Print Name

(Do not write above this line.)

In the Matter Of
KAVEH ARDALAN

Case Number(s):
05-O-01956
05-O-03607
07-O-10192

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.)

11/8/07
Date


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 November 14, 2007, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION
AND ORDER APPROVING ACTUAL SUSPENSION**

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:

**KAVEH ARDALAN
2100 N BROADWAY STE 200
SANTA ANA, CA 92706**

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

SUZAN ANDERSON, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **November 14, 2007.**



Tammy R. Cleaver
Case Administrator
State Bar Court