

(Do not write above this line.)

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

<p>Counsel For The State Bar</p> <p><b>Kristin L. Ritsema</b> Supervising Trial Counsel 1149 S. Hill Street Los Angeles, California 90015-2299 (213) 765-1235</p> <p>Bar # 149966</p>	<p>Case Number (s) <b>06-C-10123 - RAH</b></p> <p><b>PUBLIC MATTER</b></p>	<p>(for Court's use)</p> <p><b>FILED</b> <i>MDS</i> <b>OCT - 9 2007</b></p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>Counsel For Respondent</p> <p><b>JoAnne Earls Robbins</b> Karpman &amp; Associates 9200 Sunset Boulevard, Penthouse 7 Los Angeles, California 90069-3502 (310) 887-3900</p> <p>Bar # 82352</p>	<p>Submitted to: <b>Assigned Judge</b></p>	
<p>In the Matter Of: <b>Miles Clark, III</b></p> <p>Bar # 213663</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p><b>STAYED SUSPENSION; NO ACTUAL SUSPENSION</b></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 4, 2001**.
- (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 **15** 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):
- costs added to membership fee for calendar year following effective date of discipline.
  - costs to be paid in equal amounts prior to February 1 for the following membership years: **three (3) 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
  - (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.
- (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. **No worker's compensation claim was ever made by any of Respondent's employees. In addition, Respondent paid restitution of more than \$82,000 for the underpaid worker's compensation insurance premiums, so the State Compensation Insurance Fund was not harmed.**
- (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. **Respondent cooperated with the prosecutor in the underlying criminal matter, entered into a plea agreement, self-reported to the State Bar the charges filed against him, and has cooperated and been candid with the State Bar during the pendency of this disciplinary matter.**
- (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

**No prior discipline:** Although the current misconduct is deemed serious, Respondent was admitted to practice law in California in June 2001 and has no prior record of discipline.

**Good moral character:** Respondent has submitted several letters from people who attest to Respondent's good character and who are aware of the full extent of his misconduct. In addition, even the Supervising Attorney General who prosecuted Respondent in the underlying criminal matter submitted a letter in support of Respondent in which he explained why he plead the case as a misdemeanor due to information that came to light after the initial felony charges were filed (with respect to Respondent being an absentee owner and relying on his girlfriend, father and long-time independent contractor to run the business in his absence). In his letter, the Supervising Attorney General indicated that because of the unique facts and circumstances of the case, he felt confident at the time of the plea agreement, and still feels confident, that Respondent will not be engaging in any future criminal misconduct.

**Remorse:** Respondent has expressed remorse and has accepted responsibility for the misconduct that occurred.

**Other:** Respondent was a rising star in the Riverside County District Attorney's Office (see Attachment, pages 9-10). Respondent lost his career with the District Attorney's Office because of the charges and conviction. Respondent has suffered a significant impact already. (In re DeMassa (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 737.)

### 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:

The above-referenced suspension is stayed.

(2)  **Probation:**

Respondent is 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)

### 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 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.
- (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 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 the 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

**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 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**

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No MPRE recommended. Reason:

(2)  **Other Conditions:**

**ATTACHMENT TO**

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF:        MILES CLARK, III

CASE NUMBER:            06-C-10123 - RAH

**PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING.**

1.        This is a proceeding pursuant to sections 6101 and 6102 of the Business and Professions Code and rule 9.10 of the California Rules of Court.
2.        On November 17, 2005, the Attorney General filed a criminal complaint against Respondent in the Riverside County Superior Court, case number RIF127072, alleging eight felony counts of wilfully misrepresenting a fact in order to obtain insurance from the State Compensation Insurance Fund at less than the proper rate for such insurance, in violation of Insurance Code section 11880(a).
3.        On January 10, 2006, Respondent self-reported to the State Bar that he had been charged as set forth above.
4.        On August 7, 2006, Respondent plead nolo contendere to and was convicted of four misdemeanor counts of wilful failure to comply with an order of the Insurance Commissioner in violation of Insurance Code section 1859.
5.        On August 7, 2006, Respondent was sentenced to summary probation for three years and was ordered to pay a court security fee of \$20, a booking fee of \$110, a restitution fine of \$100, and restitution to the State Compensation Insurance Fund of \$82,555.18. Respondent was also ordered to complete 100 hours of community service. Respondent has completed all terms and conditions of his summary probation.
6.        On October 23, 2006, the Review Department of the State Bar Court issued an order referring the matter to the Hearing Department to hold a hearing and issue a decision limited to the issue of whether the facts and circumstances surrounding the offense of which Respondent was convicted involved moral turpitude or other misconduct warranting discipline.

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7. On November 17, 2006, the Review Department of the State Bar Court issued an order augmenting its October 23, 2006 order referring the matter to the Hearing Department to include a hearing and decision recommending the discipline to be imposed in the event that the Hearing Department finds that the facts and circumstances surrounding the offense of which Respondent was convicted involved moral turpitude or other misconduct warranting discipline.

## **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.

### Facts and Circumstances Surrounding Respondent's Conviction:

Respondent started a trucking business, called Miles Clark Trucking or MCT, in 1985. He had learned the trucking business from his father and uncle. He started with 1 truck, then bought another and had one other independent contractor driver for a number of years. In the early 1990's, he bought 5 more trucks and hired additional independent contractor drivers.

From 1987 on, Respondent's company had 1 main client, All American Asphalt, which made up about 90% of the company's business. Respondent's company would haul rock, sand, etc. for All American Asphalt. According to Respondent, it was standard in the industry to hire independent contractor drivers. The drivers were paid a percentage of the fee for the hauling job (25% to 27%). The drivers signed independent contractor agreements.

In 1996, Respondent started attending law school through a night school program. From 1996 through 1998, Respondent was still fairly involved in his trucking business. However, by 1999, Respondent was in his last year of law school, which was taking more and more of his time. He also was taking a bar review course at the same time. He spent very little time with his trucking business. By 1999, Respondent visited the business only every 3 or 4 months.

In 1998, Respondent's significant other, with whom he was then residing, decided to change jobs. She had some human resources experience and asked to go to work for Respondent running his office, which seemed to be an ideal situation. At the time, Respondent was in law school, which was starting to take more and more of his time away from the business, and he was planning to become an attorney anyway. So, in 1999, Respondent turned over the running of his business to his girlfriend/office manager, his father (who also worked for Respondent's business), and his truck yard supervisor (a long-time independent contractor who had worked for Respondent from the early days of the business.)

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In 1999, Respondent's company bought more trucks but found it more and more difficult to get good drivers. Respondent's girlfriend/office manager suggested that the company would have better success hiring good drivers if the company switched from using independent contractors to hiring full employees. Respondent agreed and Respondent's girlfriend/office manager was to be responsible for making the switch. Respondent left it to her to find out what was required and actually make the switch.

Respondent's company was required to submit quarterly reports for worker's compensation insurance purposes. One of the items required to be reported was whether the company had any employees/employee payroll. For many years, the answer was always no because the company used only independent contractors. The information on the quarterly reports was used by the State Compensation Insurance Fund to set appropriate worker's compensation insurance premium rates. Companies with no employees were required to pay only a minimum rate.

In March 2000, Respondent completed the required worker's compensation quarterly report form. Before he did so, he asked his girlfriend/office manager whether the company had made the switch yet to full employees from independent contractors. She told him no, so Respondent signed the report and indicated that there were no employees/employee payroll. This was false, because Respondent's girlfriend/office manager actually had switched the company from hiring independent contractors to hiring full employees. According to Respondent, he didn't know that it was false. Respondent believed what his girlfriend/office manager told him because he had no reason not to do so.

In June 2000, Respondent's girlfriend/office manager completed the worker's compensation quarterly report form indicating that the company had no employees/employee payroll. This was false. She signed Respondent's name to the form without his authorization or permission. Respondent acknowledges that he expected that his girlfriend/office manager would prepare and submit required forms because she was running the business. However, according to Respondent, he never authorized her to sign his name to anything. He expected that she would sign required forms in her own name.

In July 2000, Respondent took the California bar exam and started clerking for the Riverside County District Attorney's Office.

In September 2000, Respondent happened to stop by the trucking company's office and looked at the mail. There was a worker's compensation quarterly report in the mail. Respondent again asked his girlfriend/office manager whether she had made the switch from independent contractors to employees, and she told him that she hadn't done it yet. So, Respondent completed the quarterly report form and indicated no employees/employee payroll. This was false. This incident was the last time that Respondent and his girlfriend/office manager ever

discussed the issue of employees v. independent contractors until June 2002. All subsequent quarterly reports were prepared by Respondent's girlfriend/office manager. She signed Respondent's name to at least one additional report and signed her own name to the rest.

In November 2000, Respondent learned that he had not passed the bar exam. So, he started studying for it again. From November 2000 through the February 2001 bar exam, Respondent studied exclusively. He never went to the trucking company office.

In May 2001, Respondent learned he had passed the bar exam. He was sworn in in June 2001 and opened a law office with two friends who had previously passed the bar exam. From June 2001 until January 2002, Respondent says he was "learning how to be an attorney." In January 2002, he accepted a full-time job with the Riverside County District Attorney's Office. He spent no time on his business. As far as Respondent was concerned, it was in good hands with his father, his girlfriend/office manager and his truck yard supervisor, all of whom constantly assured Respondent that everything was fine with the business. This was not actually the case. It turns out that because of the company's mismanagement, the company's main client, All American Asphalt, became dissatisfied and terminated the company's contract in 2003. The company went out of business in 2003.

In June 2002, Respondent's girlfriend/office manager told Respondent that the switch from independent contractors to employees had been accomplished. She told Respondent that because of the switch, State Compensation Insurance Fund (the worker's compensation insurance carrier) was owed \$28,278.58 to cover the worker's compensation insurance and asked Respondent to deposit the funds into the company account so that the State Compensation Insurance Fund could be paid. Respondent immediately wrote a check dated June 6, 2002 for the amount requested, which was deposited into the company account and paid to the State Compensation Insurance Fund.

By late 2002, Respondent and his girlfriend/office manager began experiencing significant problems in their personal situation. These ultimately led to irreconcilable differences and a breakdown in their relationship. She moved out of Respondent's home in 2004.

During his first six months with the Riverside County District Attorney's Office, Respondent was assigned to do preliminary hearings. During the second six months, he was assigned to do juvenile cases. In early 2003, Respondent was given a trials assignment downtown. He tried 20 cases and was named the Riverside County District Attorney's Office "Misdemeanor Trial Lawyer of the Year." In July 2003, Respondent was promoted to the gang unit. In 2004, Respondent tried 14 gang cases and was named the Riverside County District Attorney's Office "Felony Trial Lawyer of the Year." Respondent was told by management in the Riverside County District Attorney's Office that he was the rising star of the office, that he

would be a good supervisor, and that he was being groomed for management. By this time, Respondent had tried approximately 50 cases and had never lost one.

R married his wife in August 2005. She also was a Deputy District Attorney with the Riverside County District Attorney's Office. She was another rising star and was named the Riverside County District Attorney's Office "Misdemeanor Trial Lawyer of the Year" for 2005.

In November 2005, the criminal charges were filed against Respondent based on the incorrect worker's compensation quarterly reports. As a result of the charges, according to Respondent, his life was turned upside down. Respondent was put on administrative leave at the Riverside County District Attorney's Office pending resolution of the criminal matter. However, because he needed to work, in January 2006, Respondent started his own private practice.

Respondent acknowledges that as the owner of MCT, it was his responsibility to assure that the required worker's compensation quarterly reports were completed accurately. However, MCT was a trucking business, was not related to the practice of law, and Respondent reasonably relied on his girlfriend/office manager, his father, and his truck yard supervisor to run the company while he attended law school, studied for the bar examination, and began his career as an attorney. Respondent understands that running a law office is quite a different matter and that as an attorney, he has ethical obligations as well as personal, fiduciary obligations to his clients and others.

#### Conclusions of Law:

By engaging in the misconduct that led to his criminal conviction of four counts of violating Insurance Code section 1859.1, Respondent wilfully failed to uphold the law of this State in violation of Business and Professions Code section 6068(a).

Neither the underlying conviction itself, nor the facts and circumstances surrounding the conviction involved moral turpitude. However, the conviction and the facts and circumstances surrounding the conviction do involve other misconduct warranting discipline.

#### **PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A.(7), was September 19, 2007.

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## **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of September 19, 2007, the costs in this matter are \$4,151.00. 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.**

### **1. Standards.**

The determination of discipline begins "by looking to the purpose of sanctions for attorney misconduct." (*In re Morse* (1995) 11 Cal.4th 184, 205.) "The primary purposes of disciplinary proceedings . . . 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." (Std. 1.3.)

The standards provide guidance and deserve "great weight." (*In re Silverton* (2005) 36 Cal.4th 81, 92; *In re Morse, supra*, 11 Cal.4th at p. 205; *In re Naney* (1990) 51 Cal.3d 186, 190; *Van Sloten v. State Bar* (1989) 48 Cal.3d 921, 933, fn. 5.) "[A]dherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct." (*In re Naney, supra*, 51 Cal.3d at p. 190; see also *In re Brown* (1995) 12 Cal.4th 205, 220.) The California Supreme Court accepts a disciplinary recommendation resulting from application of the standards unless it has "grave doubts" about the recommendation's propriety. (*In re Morse, supra*, 11 Cal.4th at p. 206; *In re Lamb* (1989) 49 Cal.3d 239, 245.)

In this case, standard 3.4 applies. Standard 3.4 provides that,

Final conviction of a member of a crime which does not involve moral turpitude inherently or in the facts and circumstances surrounding the crime's commission but which does involve other misconduct warranting discipline shall result in a sanction as prescribed under part B of these standards appropriate to the nature and extent of the misconduct found to have been committed by the member.

Unfortunately, standard 3.4 does not provide much guidance. However, Respondent's conviction of wilfully failing to comply with an order of the Insurance Commissioner in violation of Insurance Code section 1859.1 is at least analogous to culpability for wilfully failing to obey a court order in violation of Business and Professions Code section 6103. Therefore, one can look to the standard that would apply to a violation of Business and Professions Code section 6103 for some guidance as to the appropriate discipline to be imposed in this conviction matter.

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Standard 2.6(b) provides that culpability of a member of violating Business and Professions Code section 6103 shall result in disbarment or suspension depending on the gravity of the offense or the harm, if any, with due regard for the purposes of imposing discipline set forth in Standard 1.3. Here, Respondent's misconduct was not intentional, knowing misconduct, but rather resulted from his recklessness or gross negligence in failing to properly supervise the running of his trucking business and from his misplaced reliance on his girlfriend/office manager. Also, as set forth above, no harm ultimately resulted from the incorrect information reported on the worker's compensation quarterly reports at issue, because none of Respondent's employees ever filed a worker's compensation claim, and because Respondent paid restitution of more than \$82,000 to the State Compensation Insurance Fund for the underpaid worker's compensation premiums that resulted from the inaccurate quarterly reports.

Standard 1.6(b)(ii) provides that if mitigating circumstances are found which demonstrate that a lesser degree of sanction than the sanction set forth for the particular act of misconduct is required to fulfill the purposes of imposing sanctions as set forth in Standard 1.3, then a lesser degree of discipline shall be imposed. Here, there are several mitigating circumstances and no aggravating circumstances. The mitigating circumstances include the fact that no harm resulted from Respondent's misconduct, the fact that Respondent has no prior record of discipline (though he has not been in practice very long), the fact that witnesses have submitted letters attesting to Respondent's good moral character, and the fact that Respondent was candid and cooperative with both the prosecutor in the underlying criminal matter as well as with the State Bar during these disciplinary proceedings. Therefore, if the standards are interpreted to represent a range of appropriate discipline, then the mitigating circumstances suggest that the discipline to be imposed in this case should be at the low end of the range suggested by standard 2.6(b)—stayed suspension with no actual suspension.

## 2. Case Law.

No case is exactly on point with the instant matter. However the following cases provide some guidance.

*In re Morales*, 35 Cal. 3d 1 (1989) – In *Morales*, the attorney was convicted of 27 misdemeanor counts of failure to withhold or pay payroll taxes and unemployment insurance contributions. He also had a prior record of discipline for gross negligence in keeping client trust account records and failure to maintain funds in one account. The attorney was given 18 months of probation with *no actual suspension*.

*In re Chira*, 42 Cal. 3d 904 (1986) – In *Chira*, the attorney was convicted in federal court of conspiring to impede the IRS by backdating the lease of a vehicle as part of a tax shelter scheme and was sentenced to one year of probation. In mitigation, the attorney's misconduct was not related to his law practice, he obtained no personal gain, he had practiced for more than

20 years without prior discipline, and the State Bar investigation had a devastating effect on his law practice. The Supreme Court imposed discipline of three years of probation with *no actual suspension*.

*In re DeMassa*, 1 Cal. State Bar Ct. Rptr. 737 (Review Dept. 1991) – In *DeMassa*, the attorney was convicted in federal court of one felony count of harboring a fugitive, an offense involving moral turpitude per se. In aggravation, the misconduct involved the practice of law, because the fugitive was the attorney’s client. In mitigation, the attorney had practiced for eight years without discipline, he provided an extraordinary demonstration of good moral character, and the proceedings had a harsh impact upon the attorney, his family, his law practice, and his ability to earn income. The attorney’s acts were found to be aberrational and not a current threat to the public. He was placed on probation for one year with *only 60 days of actual suspension*.

*In re Brown*, 12 Cal. 4<sup>th</sup> 205 (1995) – In *Brown*, the attorney was convicted of failing to remit withheld taxes from employee wages. Moreover, the attorney used the withheld money to satisfy his personal debts. Nevertheless, the Supreme Court found no moral turpitude. The court imposed discipline of two years of stayed suspension with *only 60 days of actual suspension*.

As set forth above, none of these cases is a real good fit with the instant case. However, they provide some guidance in that the misconduct found in each case was more serious than the misconduct in this conviction matter and yet the attorneys involved in those cases received no actual suspension or only minimal actual suspension, indicating that imposing only stayed suspension in this case is appropriate.

Finally, as always, we must heed the lesson of *In re Morse* (1995) 11 Cal.4th 184 that the determination of the appropriate level of discipline ultimately depends on what Respondent did wrong and what level of discipline is most likely to protect the public, the courts, and the profession and deter Respondent from future wrongdoing. (*Id.* at 208-209.) Here, Respondent’s misconduct resulted from unique circumstances that no longer exist, and there is absolutely no indication that Respondent represents a threat to the public, the courts or the profession or needs to be deterred in any way from future misconduct. Therefore, no actual suspension is warranted. Rather, the imposition of stayed suspension will serve the purposes of maintaining high professional standards and preserving public trust in the legal profession.

(Do not write above this line.)

In the Matter of Miles Clark, III	Case number(s): 06-C-10123 - RAH
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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	Miles Clark, III Print Name
Date	Respondent's Counsel Signature	JoAnne Earls Robbins Print Name
Date	Deputy Trial Counsel's Signature	Kristin L. Ritsema Print Name

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Date	Respondent's Signature	<u>Miles Clark, III</u> Print Name
<u>September 24, 2007</u>		<u>JoAnne Earls Robbins</u> Print Name
Date	Respondent's Counsel Signature	Print Name
<u>September 24, 2007</u>		<u>Kristin L. Ritsema</u> Print Name
Date	Deputy Trial Counsel's Signature	Print Name

(Do not write above this line.)

In the Matter Of Miles Clark, III	Case Number(s): 06-C-10123 - RAH
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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 9.18(a), California Rules of Court.)**

10/5/07  
Date

  
\_\_\_\_\_  
Judge of the State Bar Court  
**RICHARD A. 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 October 9, 2007, I deposited a true copy of the following document(s):

**STIPULATION REGARDING FACTS AND CONCLUSIONS OF LAW**

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:

**PAULJOANNE EARLS ROBBINS  
KARPMAN & ASSOCIATES  
9200 SUNSET BLVD PH #7  
LOS ANGELES, CA 90069**

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

**Kristin L. Ritsema, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **October 9, 2007**.

  
\_\_\_\_\_  
**Milagro del R. Salmeron**  
Case Administrator  
State Bar Court