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State Bar Court of California Hearing Department Los Angeles PROGRAM FOR RESPONDENTS WITH SUBSTANCE ABUSE OR MENTAL HEALTH ISSUES		
Counsel For The State Bar David T. Sauber 1149 S. Hill St. Los Angeles, CA 90015 (213) 765-1252 Bar # 176554	Case Number (s) 06-C-10234	(for Court's use) <div style="text-align: center;">  MAY 15 2008 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div> <div style="text-align: right; margin-top: 20px;">  OCT 30 2008 STATE BAR COURT CLERKS OFFICE LOS ANGELES </div>
Counsel For Respondent Gary M. Pohlon 23151 Moulton Parkway, Suite 102 Laguna Hills, CA 92653 (949) 859-7070 Bar # 67158	Submitted to: Program Judge STIPULATION RE FACTS AND CONCLUSIONS OF LAW	
In the Matter Of: Richard J. Ruszat II Bar # 220432 A Member of the State Bar of California (Respondent)	<input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **July 29, 2002**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, if Respondent is not accepted into the Lawyer Assistance Program, this stipulation will be rejected and will not be binding on the Respondent or the State Bar.
- (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, except for Probation Revocation proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of _____ pa ges, excluding 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) 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.



- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7 and will pay timely any disciplinary costs imposed in this proceeding.

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:
- (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:

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 \$ o n i n 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:

ATTACHMENT TO
STIPULATION RE FACTS AND CONCLUSIONS OF LAW

IN THE MATTER OF: **RICHARD JOHN RUSZAT II**
CASE NUMBER(s): **06-C-10234**

MEMBER # **220432**

PENDING PROCEEDINGS

The disclosure date referred to on page one, paragraph A.(6), is not applicable.

PARTIES ARE BOUND BY THE STIPULATED FACTS:

The parties intend to be and are hereby bound by the stipulated facts contained in this stipulation. This stipulation as to facts and the facts so stipulated shall independently survive even if the conclusions of law and/or stipulated disposition set forth herein are rejected or changed in any manner whatsoever by the Hearing Department or the Review Department of the State Bar Court, or by the California Supreme Court.

WAIVER OF FINALITY OF CONVICTION (rule 607):

Pursuant to the Rules of Procedure of the State Bar of California, rule 607 the parties stipulate that the Court may decide the issues as to the discipline to be imposed even if the criminal convictions discussed herein are not final.

Respondent waives finality of his conviction and consents to the State Bar Court's acceptance of this Stipulation as to facts, conclusions of law and discipline in all respects as if the conviction was final, including the entry of findings consistent with this Stipulation, imposition of discipline, or entry of a recommendation as to the degree of the discipline to be imposed.

Respondent waives any right to challenge on the basis of a lack of finality of his conviction the State Bar Court's recommendation of discipline, if any, and the actual imposition of discipline, if any, by the State Bar Court or the California Supreme Court.

Respondent further waives any right he may have to seek review or reconsideration on the basis of any relief he may receive as a result of any appeal of, or petition regarding, the criminal conviction underlying any recommendation of and/or actual imposition of discipline by the State Bar Court or the California Supreme Court.

STIPULATION AS TO FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct, or has otherwise committed acts of misconduct warranting discipline, as follows:

Stipulated facts and circumstances for Case No. 06-C-10234

1. On January 2, 2006, at 8:00 a.m., Respondent approached his wife, Michelle, in the kitchen, grabbed a cup of coffee out of her hand, and asked her if she wanted a divorce. He yelled at her to answer him and she finally stated, "Yes." Respondent then told Michelle: "You will die first before I give you a divorce." Respondent then picked up a ten-inch knife and placed it very close to Michelle's throat. This placed Michelle in great fear for her safety. Respondent then placed the knife down to his own wrist and said he was going to kill himself.

2. During this interchange all three of Respondent's daughters, ages six, four, and two, were in the same house. Respondent's six-year-old daughter came to the kitchen and asked why Respondent was saying he wanted to kill himself and Michelle. Michelle then took her daughter back upstairs.

3. Eventually Michelle brought the three children downstairs to cook them breakfast. Respondent and Michelle began arguing which made the children cry. Around the same time, Michelle's brother, Alain, arrived at the home. Respondent told Michelle that he would hit Alain with a baseball bat if he entered the residence. Respondent then went to the garage and possessed a baseball bat which he brought into the house. Respondent then told Michelle he was going to hit her with the baseball bat next. Despite warnings from Michelle, Alain entered the residence and approached Respondent. Respondent held the baseball bat up as if he were going to swing and strike with it. Alain told Respondent that he did not believe Respondent would use the baseball bat and then ordered Michelle and the children to leave the residence, which they did. Respondent then went into the garage and started destroying things in the garage.

4. Subsequently, Michelle requested and obtained an emergency protective order. Respondent was arrested and was also presented with the emergency protective order. Following his arrest, Respondent denied holding the knife to Michelle and threatening Alain with a baseball bat.

5. On January 4, 2006, a felony complaint was filed in Orange County Superior Court, Case No. 06SF0009, charging Respondent with the following: Count 1- felony violation of Penal Code section 245(a)(1): Aggravated assault; and Count 2- felony violation of Penal Code section 422: Criminal threats.

6. On January 11, 2007, a jury trial in Case No. 06SF009 commenced. The trial lasted for five days. On January 19, 2007, Respondent was found guilty of both Counts 1 and 2 of the felony complaint filed on January 4, 2006. On April 25, 2005, Respondent was sentenced to three years formal probation including the following conditions: pay fines and fees; use no drugs or alcohol; undergo drug testing; attend Domestic Violence Child Abuser's Treatment Program; attend and complete Domestic Violence Child & Youth Services Program Project Program; attend and complete Domestic Violence Health Care Agency Domestic Violence Substance Abuse Program; attend and complete Domestic Violence Batterers' Treatment Program; complete 760 hours community service; and do not have contact with Michelle A. Ruszat.

Conclusions of Law for Case No. 06-C-10234

7. The facts and circumstances surrounding Respondent's conviction, including his wilful violation of Penal Code sections 245(a)(1) [Aggravated assault] and 422 [Criminal threats], a misdemeanor, does not involve moral turpitude, but does involve other misconduct warranting discipline pursuant to Business and Professions Code, sections 6101 and 6102, in wilful violation of Business and Professions Code, section 6068(a).

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In the Matter of RICHARD J. RUSZAT II	Case number(s): 06-C-10234
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SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts and Conclusions of Law.

Respondent enters into this stipulation as a condition of his/her participation in the Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Program Contract.

If the Respondent is not accepted into the Program or does not sign the Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

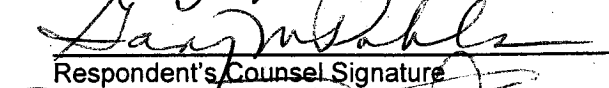
If the Respondent is accepted into the Program, upon Respondent's successful completion of or termination from the Program, this Stipulation will be filed and the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Statement Re: Discipline shall be imposed or recommended to the Supreme Court.

5-13-2008
Date


Respondent's Signature

RICHARD J. RUSZAT II
Print Name

5/13/2008
Date


Respondent's Counsel Signature

GARY M. POHLSON
Print Name

5-15-08
Date


Deputy Trial Counsel's Signature

DAVID T. SAUBER
Print Name

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In the Matter Of RICHARD J. RUSZAT II	Case Number(s): 06-C-10234
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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 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.)

10/30/08
Date



Judge of the State Bar Court
DONALD F. MILES

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DECLARATION OF SERVICE BY REGULAR MAIL

CASE NUMBER: 06-C-10234

I, the undersigned, over the age of eighteen (18) years, whose business address and place of employment is the State Bar of California, 1149 South Hill Street, Los Angeles, California 90015, declare that I am not a party to the within action; that I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service; that in the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day; that I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit; and that in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of Los Angeles, on the date shown below, a true copy of the within

STIPULATION RE FACTS AND CONCLUSIONS OF LAW

in a sealed envelope placed for collection and mailing at Los Angeles, on the date shown below, addressed to:

Courtesy Copy
GARY M. POHLSON 23151 MOULTON PARKWAY, SUITE #102 LAGUNA HILLS, CA 92653

in an inter-office mail facility regularly maintained by the State Bar of California addressed to:

N/A

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Los Angeles, California, on the date shown below.

DATED: May 15, 2008

SIGNED: 
SANDRA JONES
Declarant

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 30, 2008, I deposited a true copy of the following document(s):

STIPULATION RE FACTS AND CONCLUSIONS OF LAW

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:

GARY MICHAEL POHLSON, ESQ.
POHLSON MOORHEAD & GOETHALS
23151 MOULTON PKY #102
LAGUNA HILLS, CA 92653

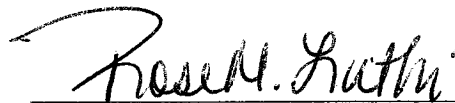
RICHARD J. RUSZAT II, ESQ.
82 ROYAL SAINT GEORGE
NEWPORT BEACH, CA 92660

RICHARD J RUSZAT, ESQ.
333 S. HOPE STREET #35FLR.
LOS ANGELES, CA 90071

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

CHARLES MURRAY, ESQ., Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 30, 2008.



Rose Luthi
Case Administrator
State Bar Court