

State Bar Court of California
Hearing Department
Los Angeles

<p>Counsel For The State Bar</p> <p>Djinna M. Gochis, Assistant Chief Trial Counsel 1149 South Hill Street Los Angeles, California 90015</p> <p>Bar # 108360</p>	<p>Case Number (s) 06-0-10050</p>	<p>(for Court's use)</p> <p>FILED</p> <p>OCT - 7 2009 <i>YJC</i></p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> <p>PUBLIC MATTER</p>
<p>In Pro Per Respondent</p> <p>Robert Earl Adams 10568 Porto Court San Diego, California 92124</p> <p>Bar # 109490</p>	<p>Submitted to: Settlement Judge</p>	
<p>In the Matter Of: Robert Earl Adams</p> <p>Bar # 109490</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>STAYED SUSPENSION; NO ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **December 12, 1983**.
- (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 *10* 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: **two (2) 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

see page 8

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. **see mitigation and authorities page 8**
- (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

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

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation 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.**
- No MPRE recommended. Reason:
- (2) **Other Conditions:**
- Within one (1) year of the effective date of the discipline herein, Respondent must also provide to the Office of Probation satisfactory proof of attendance at a session of Client Trust Accounting School and passage of the test given at the end of the session.**

(Do not write above this line.)

Attachment language (if any):

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ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: ROBERT EARL ADAMS

CASE NUMBER(S): ET AL. 06-0-10050

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.

1. Respondent was suspended, administratively, from the practice of law for non-payment of fees on September 16, 2004 until July 5, 2006.
2. In April 2005, a friend of Respondent's for many years, Tina Helton ("Helton") asked Respondent to help her with a previously filed dissolution. She paid Respondent \$2000.00. Respondent neither substituted into the case nor did he make court appearances on this matter. However, he did review her case and provided legal advice.
3. Helton was arrested during the course of her dissolution matter for driving under the influence.
4. Respondent defended her in the criminal matter, including making an appearance in court, November 8, 2005, when the District Attorney informed the court that Respondent was administratively suspended. Respondent was fined \$1,000.00 by the court, which he has paid.
5. Respondent refunded the \$2,000.00 to Helton in October 2006 after Helton complained to the State Bar.

Conclusion of Law

6. By this conduct, Respondent held himself out as entitled to practice law, and practiced law when he was not an active member of the State Bar in willful violation of sections 6125 and 6126 of the California Business and Professions Code and willfully failed to support the laws of California under section 6068(a).

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(6), was September 21, 2009.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of July 15, 2009, the prosecution costs in this matter are \$1,983. 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.

AGGRAVATING CIRCUMSTANCES

Respondent had been a practitioner since 1983. He therefore had every reason to know what the procedure was for receiving dues statements and the requirement of payment. Respondent understands that the fact that in years past other people (firms, secretaries) took care of his dues does not relieve Respondent from his obligation to check and pay and assure his status. Respondent understands he was not forthcoming with the court or with his client regarding his status. Respondent understands that this reality forms an independent basis for violation of his obligations; however, for purposes of this stipulation only, and in recognition of Respondent's expression of remorse (see below), the State Bar is resolving this matter as indicated, although it is recognized that it is a deviation from the discipline that could be imposed at trial by the hearing judge.

MITIGATING CIRCUMSTANCES.

Respondent's practice of law since 1983 without prior discipline provides a level of mitigation which argues for a lesser level of discipline, that is, no actual suspension. He was an attorney for 22 years and had no prior disciplinary contact. For purposes of this stipulation, only, it is accepted that he allowed his sense of friendship to overtake his sensibility to his obligations to the State Bar and the administration of justice. He understands that there is no friendship exception to the impropriety of practicing when dues have not been paid and in the presence of administrative suspension. Respondent understands that, for purposes of his obligation, it makes no difference why an attorney is not entitled to practice, whether it is because of disciplinary suspension, voluntary inactive enrollment or failure to pay dues. He simply cannot act as an attorney or give any form of legal advice in those circumstances.

This disposition also recognizes, as substantive mitigation, Respondent's cooperation in concluding this stipulation prior to the filing of the Notice and the incurring of substantial costs. Finally, the events which formed the basis of the misconduct occurred in 2005. Respondent has had no further negative contact with the Bar in that nearly four year span, such that it may be evaluated that his conduct in this matter was truly an aberration.

AUTHORITIES SUPPORTING DISCIPLINE

A violation of sections 6068(a), 6125 and 6126, standing alone allow for a broad response, under standard 2.6 of the *Standards for Attorney Sanctions for Professional Misconduct*, that is, anything from suspension to disbarment. The case law response tends toward a wide range as well (see, for example, In the *Matter of Taylor* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563; *Farnham v. State Bar* (1976) 17 Cal.3d. 605).

It cannot be said that Respondent's conduct was not serious. It can be said that Respondent did not do anything like it before, or since (to date). Thus, the question is what will best serve the protection of the public, the maintenance of high standards, and the integrity of the profession, first, and if appropriate, the rehabilitation of the member. The parties posit that a stayed suspension will address THIS member's failure.

STATE BAR ETHICS SCHOOL.


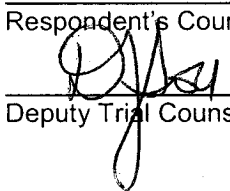
Because respondent has agreed to attend State Bar Ethics School as part of this stipulation, respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School.

(Do not write above this line.)

In the Matter of ROBERT EARL ADAMS	Case number(s): 06-0-10050
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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>9-23-09</u> Date	 Respondent's Signature	<u>ROBERT EARL ADAMS</u> Print Name
<u>9/25/09</u> Date	 Deputy Trial Counsel's Signature	<u>DJINNA M. GOCHIS</u> Print Name

(Do not write above this line.)

In the Matter Of
ROBERT EARL ADAMS

Case Number(s):
06-0-10050

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.)**

Date

10/7/09

Judge of the State Bar Court

DONALD F. MILES

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 7, 2009, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO 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:

**ROBERT EARL ADAMS
10568 PORTO CT
SAN DIEGO, CA 92124**

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

DJINNA GOCHIS, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 7, 2009.



Tammy Cleaver
Case Administrator
State Bar Court