



- (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 (public reproof)
  - case ineligible for costs (private reproof)
  - costs to be paid in equal amounts for the following membership years: three billing cycles following the effective date of the public reproof  
(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
- (9) The parties understand that:
- (a)  A private reproof imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
  - (b)  A private reproof imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
  - (c)  A public reproof imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

**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.
- (3)  **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4)  **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5)  **Restitution:** Respondent paid \$ \_\_\_\_\_ on \_\_\_\_\_ in restitution to \_\_\_\_\_ without the threat or force of disciplinary, civil or criminal proceedings.
- (6)  **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7)  **Good Faith:** Respondent acted in good faith. see page 8-9
- (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.

(Do not write above this line.)

- (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:**

see page 89.

**D. Discipline:**

- (1)  **Private reproof (check applicable conditions, if any, below)**
- (a)  Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).
- (b)  Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).

or

- (2)  **Public reproof (Check applicable conditions, if any, below)**

**E. Conditions Attached to Reproval:**

- (1)  Respondent must comply with the conditions attached to the reproof for a period of one (1) year.
- (2)  During the condition period attached to the reproof, 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 condition period attached to the reproof. 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 the reproof during the preceding calendar quarter. Respondent must also state in each report 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 (thirty) days, that report must be submitted on the next following 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 condition period and no later than the last day of the condition period.

- (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 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 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 conditions attached to the reprobation.
- (8)  Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: .
- (9)  Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10)  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 of the effective date of the reprobation.
- No MPRE recommended. Reason: Not required for the protection of the public pursuant to Respondent G.
- (11)  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:**

(Do not write above this line.)

---

Attachment language (if any):

THIS PAGE INTENTIONALLY LEFT BLANK.

ATTACHMENT TO  
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF:                      Keith Edwin Herron

CASE NUMBER(S): ET AL.              06-0-12150

**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. On March 28, 2005, Respondent filed an appeal of a default judgment on behalf of his client, Vern D. Blanchard ("Blanchard") (*In re Vern D. Blanchard, Debtor et al.; James L. Kennedy, Plaintiff v. Vern D. Blanchard et al. Defendants and Vern D. Blanchard, Appellant v. James L. Kennedy, Chapter 7 Trustee*, Civil No. 05cv0717-L (JFS), BAP No. SC 05-1112, Bankruptcy No. 96-12037-H7, Bankruptcy Adversary No. 99-90357). This was one of several interrelated appeals in the debtor's matter between the Bankruptcy and the District Court.

2. On June 7, 2005, the Bankruptcy Court filed a Notice of Unperfected Appeal. On June 10, 2005, it issued an Order to Show Cause why appellant Blanchard's appeal should not be dismissed for lack of prosecution. The hearing date set for the Order to Show Cause was July 5, 2005.

3. When neither Blanchard nor Respondent appeared on July 5, 2005 for the Order to Show Cause, the appeal was dismissed.

4. On July 13, 2005, Respondent filed a motion on Blanchard's behalf to set aside the dismissal and reset the briefing schedule.

5. Respondent advised in his motion that he did not have notice of the hearing on the Order to Show Cause filed by the attorney for James L. Kennedy, Scott McMillan, ("McMillan") the briefing schedule regarding the motion, or the brief by McMillan regarding dismissal of the appeal.

3. In August 2005, the Court granted McMillan's ex parte application to obtain Respondent's PACER records for docket access to the case. In response to the motion, Respondent, in part, stated that his access to PACER related to the case had been unsuccessful.

4. The PACER records demonstrated that the docket related to the case and the related orders had been accessed successfully by **someone** in Respondent's office.

5. Based upon that access to Respondent's PACER records, the court found that Respondent's office did have notice and thus the representations to the court were, factually, untrue.

6. On February 6, 2006, the Court denied Respondent's motion to set aside or vacate the dismissal and pursuant to a motion by McMillan for sanctions under Rule 11 and Federal Rule of Bankruptcy

Procedure, as well as the Court's inherent authority, Respondent was sanctioned in the sum of \$16,872.00. Respondent did not oppose the sanctions<sup>1</sup>.

7. The Court reported the sanctions. Respondent failed to do so.

## CONCLUSIONS OF LAW

8. By his conduct, Respondent failed to employ means consistent with truth and failed to report the sanctions against him in willful violation of section 6068(d) and 6068(o)(3) of the California Business and Professions Code.

## FACTS AND CIRCUMSTANCES BEARING UPON THE DISPOSITION

Respondent offers the following statement/explanation regarding to the events which led the court's sanction:

"In late 2004, my partnership terminated and I took on a case entitled In re Blanchard, which was being worked on by other attorneys in the partnership. I had previously worked on this case dealing with procedural issues and I felt I could handle the litigation. I assembled a team of paralegals to research and prepare necessary documents. My client, Vern Blanchard, was one of those paralegals. The case was complex with two sets of defendants and another attorney working for the second defendant. We shared the paralegals and supervised the case. The clients of the other attorney passed away and left the case with me to handle. Since the issues went hand-in-hand I believed I needed to take more of a part and keep the other attorney informed. A judgment was entered as a Discovery sanction against the client and appeals needed to be filed, a total of four (4). The appeals were transferred from the BAP to the District Court. The information came in on three of the appeals, but I could not find information on the fourth appeal. When judgment was entered as a default, I filed for Reconsideration and indicated that I was unaware of the fourth appeal and believe it was not received by my office. I discovered that the information was available regarding the fourth appeal; however, I relied on information provided by my paralegals which resulted in the Court determining that I had made a misrepresentation and imposed sanctions."

The Respondent has been an attorney in the State of California since 1990, over twenty years, without prior disciplinary contact with the State Bar. In that the underlying issue was the representations made to the court, it cannot be said that this matter is not serious, but it can be said that the matter was adequately resolved by the sanction of the court with substantial sanctions. Although he is in financial straits, Respondent has been slowly paying the sanctions to McMillan. He has an agreement with McMillan to pay \$250.00 per month. There is no complaint from either McMillan or Respondent's own client, Blanchard, related to the underlying matter.

The gravamen of the court's sanction was that Respondent's statements regarding notice were not true, and were known to be untrue, in large part because Respondent's PACER records showed access to the docket by someone in Respondent's office. Respondent represents to the State Bar Court and to the

---

<sup>1</sup> It is also accepted for purposes of this stipulation only that Respondent misunderstood a telephonic message from McMillan and believed that the sanction motion was being taken off calendar, and that this was the reason Respondent did not respond to the sanction motion.



Office of the Chief Trial Counsel that it was in fact his staff, including at that time, his client Vern Blanchard who accessed the records and Respondent made his inaccurate representations to the court based upon what they told him. Accepting this rendition of event by Respondent for purposes of the Stipulation only, Respondent understands that he should not then have made the statements to the court as if he had personal knowledge when he did not and had made no effort to verify their truth. It is not a defense that he relied on the representations to him or that he was rushed to get the motion to set aside the dismissal filed.

### **AUTHORITIES IN SUPPORT OF THE DISPOSITION**

Respondent posits (and it is being accepted for purposes of stipulation), therefore, that his conduct was the result of haste and negligence and that he did not "intend" to misrepresent anything to the court. As well, he was trying to act in his client's best interests and was in good faith. However, gross carelessness and negligence constitute a violation of the oath and duties of an attorney, and Respondent's assertion of good faith does not immunize him from culpability and/or discipline. (see for example, *Doyle v. State Bar* 15 Cal.3d 973 where the lawyer made misrepresentations to both a client and to the State Bar; *In the Matter of Regan* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 844). His failure of care had an effect on, if nothing else, the administration of justice.

If the *Standards for Attorney Sanctions for Professional Conduct*, Standard 2.3 were strictly applied, Respondent's conduct toward the court could result in actual suspension to disbarment depending upon the magnitude of the misconduct and the degree to which it related to the practice of law. Failure to report a sanction, also, has a range under standard 2.6 between disbarment and suspension.

Case law, in the area of an attorney's isolated misrepresentation to, or concealment of a material fact from a court, has been known to allow for what is a significant deviation from the standard, a public reproof as proffered by the parties in this case. Much of this case law is admittedly pre-standards, e.g. *DiSabatino v. State Bar* (1980) 27 Cal.3d 159; *Mushrush v. State Bar* (1976) 17 Cal.3d 487; *Mosesian v. State Bar* (1972) 8 Cal.3d 60. At least one post standards case, *In Matter of Paysanos* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 746, where the attorney prior to admission to practice failed to update her Application for Determination of Moral Character to advise, of a criminal misdemeanor matter, also resulted in a public reproof. Given the range of discipline possible, the main concern in protecting the public and maintaining high professional standards is not only what the member did, but what discipline will best address it and will act to deter the attorney from future misconduct. For purposes of this stipulation, it is accepted that the public reproof should be sufficient to meet the protection of the public and to deter the member, both.

### **PENDING PROCEEDINGS.**

The disclosure date referred to, on page 2, paragraph A(6), was July 6, 2010.

### **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of May 4, 2010, 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.

**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.

141020

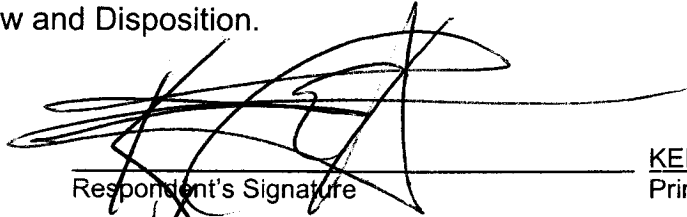
(Do not write above this line.)

In the Matter of <b>Keith Edwin Herron</b>	Case number(s): <b>06-0-12150</b>
-----------------------------------------------	--------------------------------------

**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.

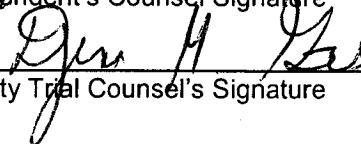
7-29-10  
Date

  
Respondent's Signature

KEITH EDWIN HERRON  
Print Name

8/3/10  
Date

N/A  
Respondent's Counsel Signature

  
Deputy Trial Counsel's Signature

Print Name  
DJINNA M. GOCHIS  
Print Name

(Do not write above this line.)

In the Matter Of <b>Keith Edwin Herron</b>	Case Number(s): <b>06-0-12150</b>
-----------------------------------------------	--------------------------------------

**ORDER**

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproof, 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 REPROVAL IMPOSED.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- All court dates in the Hearing Department are vacated.

The box for Paragraph B (8) ["no aggravating circumstances are involved."] is deemed checked and that finding included in the stipulation.

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 125(b), Rules of Procedure.) **Otherwise the stipulation shall be effective 15 days after service of this order.**

**Failure to comply with any conditions attached to this reproof may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.**

8/12/10  
Date

  
\_\_\_\_\_  
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 August 13, 2010, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING PUBLIC REPROVAL**

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:

**KEITH E. HERRON  
KEITH E HERRON & ASSOCIATES  
4870 SANTA MONICA AVE STE 2D  
SAN DIEGO, CA 92107**

- 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 August 13, 2010.

  
\_\_\_\_\_  
Tammy Cleaver  
Case Administrator  
State Bar Court