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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 MONIQUE T. MILLER DEPUTY TRIAL COUNSEL 1149 South Hill Street Los Angeles, California 90015-2299 213-765-1486 Bar # 212469	Case Number (s) 06-O-14318	(for Court's use) NOV 04 2008 CLERK'S OFFICE LOS ANGELES FILED JAN 21 2010 STATE BAR COURT CLERK'S OFFICE LOS ANGELES PUBLIC MATTER
In Pro Per Respondent ROBERT DAVIS BILLS, JR. Law Ofc. Robert D. Bills, Jr. 321 3rd Street Laguna Beach, CA 92651-2306 949-497-2603	Submitted to: Program Judge	
Bar # 147012	STIPULATION RE FACTS AND CONCLUSIONS OF LAW	
In the Matter Of: ROBERT DAVIS BILLS, JR. Bar # 147012 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 **June 11, 1990**.
- (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 **10** pages, 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".



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- (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 **03-O-04916**
- (b) Date prior discipline effective **June 2, 2004**
- (c) Rules of Professional Conduct/ State Bar Act violations: **Rule 3-110(A)**
- (d) Degree of prior discipline **Private Reproval**
- (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:

C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.

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- (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.
- (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, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: ROBERT DAVIS BILLS, Bar # 147012

CASE NUMBERS: 06-O-14318

WAIVER OF VARIANCE BETWEEN NOTICE OF DISCIPLINARY CHARGES AND STIPULATED FACTS AND CULPABILITY

The parties hereby waive any variance between the Notice of Disciplinary Charges (“NDC”) filed on August 1, 2008 in Case No. 06-O-14318 , and the facts and conclusions of law contained in this stipulation.

Additionally, the parties waive the issuance of an amended Notice of Disciplinary Charges relating to the case that is the subject matter of this stipulation.

INCORPORATION OF PRIOR STIPULATION

This stipulation is an addendum intended to supplement the Stipulation re: Facts and Conclusions of Law in Case Nos. 04-O-15533 et al., which the parties lodged with this Court on February 28, 2008, and the Stipulation re: Facts and Conclusions of Law in Case No. 07-O-10084, which the parties lodged on September 9, 2008 (the “Prior Stipulations”). The Prior Stipulations are also incorporated as if fully set forth herein.

FACTS AND CONCLUSIONS OF LAW IN CASE NO. 06-O-14318

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

1. On December 16, 2003, Service Roofing Company filed a breach of contract complaint against Steve McGee and Robin McGee entitled, *Service Roofing Company, a California Corporation v. Steve McGee, Robin McGee et. al.*, Orange County Superior Court, case no. 03CL08885 (the “breach of contract action”).

2. On February 9, 2004, attorney Brandon Q. Tran of the law firm Cummins & White, LLP, filed a response on behalf of the McGees in the breach of contract action. In addition, on or about February 9, 2004, Tran filed a cross-complaint against Service Roofing Company on behalf of the McGees.

3. On March 26, 2004, plaintiff Service Roofing Company ("plaintiff"), through its counsel, Daniel C. Bowen, served the McGees with special interrogatories and an inspection demand.
4. On April 29, 2004, the McGees, through their counsel, served plaintiff with responses to the special interrogatories and the inspection demand.
5. On May 1, 2004, Bowen wrote Cummins & White objecting to the McGee's discovery responses and requesting complete responses by May 17, 2004.
6. On May 14, 2004, Steve and Robin McGee employed Respondent to represent them in the breach of contract action. On May 14, 2004, the McGees paid Respondent \$2,500 in advanced attorney's fees. In addition, McGee provided Respondent with the litigation file in the breach of contract action.
7. On May 14, 2004, Respondent, McGee and Tran signed a substitution of attorney to substitute Respondent in place of Cummins & White as counsel of record for the McGees in the breach of contract action. Respondent never filed the substitution of attorney with the court.
8. On May 17, 2004, Respondent spoke to plaintiff's counsel, Daniel Bowen, about the breach of contract action. During the May 17, 2004 conversation, Respondent told Bowen that he was substituting into the case. Respondent never provided Bowen with a copy of the substitution of attorney.
9. On May 18, 2004, Respondent wrote Bowen and confirmed that he was now representing the McGees. In the May 18, 2004 letter, Respondent said he intended to retain an expert to inspect the McGees' roof. In the May 18, 2004 letter, Respondent also wanted to confirm that Bowen would not be filing a motion to compel further discovery responses.
10. On May 21, 2004, Bowen responded to Respondent's May 18, 2004 letter. In the May 21, 2004 letter, Bowen confirmed that he would not file a motion to compel further discovery responses before July 19, 2004. In June 2004, both Respondent and Cummins & White signed the May 21, 2004 letter agreeing to an extension of time to file the motion to compel.
11. On May 24, 2004, Respondent met with Steven McGee to discuss the breach of contract action. This was Respondent's last in-person meeting with McGee.
12. As of July 19, 2004, Respondent had not provided further discovery responses to Bowen and had not communicated with Bowen. Therefore, on July 19, 2004, Bowen filed a motion to compel further discovery responses from the McGees. In his supporting declaration, Bowen noted that he still had not received a substitution of attorney. The hearing regarding the motion to compel in the breach of contract action was scheduled for August 17, 2004. The motion to

compel was properly served on Respondent and Tran. Respondent received the motion to compel but failed to respond.

13. On July 27, 2004, McGee sent an email to Respondent instructing him to stop work on the breach of contract action and asking Respondent to provide an accounting. In the July 27, 2004 email, McGee noted that Respondent had not returned McGee's calls in May, June or July. McGee also told Respondent that he was still waiting to meet Respondent's construction expert. In the July 27, 2004 email, McGee asked Respondent to call him. Respondent received the July 27, 2004 email but failed to respond.

14. In August 2004, Brandon Tran of Cummins & White assisted the McGees in providing the supplemental discovery responses to the plaintiff in the breach of contract action. In addition, the McGees retained Cummins & White again to represent them in the breach of contract action.

15. On August 3, 2004, McGee received an email from someone stating he was Respondent's son. The August 3, 2004 email stated that Respondent had been on vacation for two weeks and became ill after returning. The August 3, 2004 email stated that they expected Respondent to be "back on his feet in a day or two."

16. On August 9, 2004, the hearing regarding plaintiff's motion to compel further discovery responses was continued to September 14, 2004.

17. As of August 9, 2004, Respondent had not contacted McGee. Therefore, on August 9, 2004, McGee sent an email to Respondent regarding his failure to respond to McGee's calls and emails and Respondent's failure to provide an accounting. Respondent received the August 9, 2004 email but failed to respond.

18. On September 7, 2004, McGee sent an email to Respondent asking for an accounting and a refund of the \$2,500 in fees paid to Respondent in the breach of contract action. Respondent received the September 7, 2004 email but failed to respond.

19. On September 20, 2004, McGee sent another email to Respondent again asking for an accounting and a refund of the \$2,500 in attorney fees paid by the McGees. Respondent received the September 20, 2004 email but failed to respond.

20. On October 12, 2004, Brandon Tran filed a motion to continue the trial in the breach of contract action. In the motion to continue, Tran stated that Respondent had failed to respond to Tran's telephone messages and emails. In his motion, Tran argued that because of Respondent's failure to perform, Cummins & White decided to "pick-up the defense of the McGees" and served supplemental responses to the written discovery on behalf of the McGees. In his motion, Tran argued that given the limited period before the trial on November 8, 2004, "Cummins & White cannot patch all the holes created by [Respondent's] lapse of

representation.”

22. On October 13, 2004, the court granted the motion to continue the trial in the breach of contract action.

23. On June 29, 2006, McGee wrote Respondent regarding Respondent’s lack of performance. Specifically, in his June 29, 2006 letter, McGee told Respondent that he had not earned the \$2,500 in attorney’s fees and requested a full refund. McGee properly mailed the June 29, 2006 letter to Respondent. Respondent received the letter but did not respond.

24. Respondent did not perform any services of value on behalf of the McGees in the breach of contract action. Respondent did not earn the \$2,500 in attorney’s fee paid by the McGees.

25. On September 21, 2006, the State Bar opened an investigation, case no. 06-O-14318, concerning Respondent’s representation of Steven and Robin McGee (the “McGee matter”).

26. On October 10 and October 26, 2006, a State Bar investigator wrote Respondent regarding the McGee matter. The investigator’s letters were properly mailed and sent to Respondent at his State Bar of California membership records address. The United States Postal Service did not return the investigator’s letters as undeliverable or for any other reason.

27. The investigator’s letters requested that Respondent respond in writing to specific allegations of misconduct being investigated by the State Bar in the McGee matter. Respondent received the letters but did not respond.

28. On November 15, 2006, Respondent called and spoke to the State Bar investigator. During the November 15, 2006 conversation, Respondent promised to provide a response in the McGee matter to the State Bar by November 24, 2006. Respondent did not provide his response to the McGee matter by November 24, 2006.

1. On or about December 20, 2006, the State Bar investigator telephoned Respondent about the McGee matter. During the December 20, 2006 conversation, Respondent stated that he did not have any court appearances scheduled, and therefore, he could provide his written response in the McGee matter by December 21, 2006. Respondent failed to submit his written response on December 21, 2006.

30. On December 22, 2006, Respondent wrote the State Bar stating that he was “in the process of finalizing [his] response” and would be faxing it to the State Bar that day. Respondent failed to provide the written response in the McGee matter.

31. On February 5, 2007, a State Bar Deputy Trial Counsel contacted Respondent

regarding his failure to provide a response in the McGee matter. During the February 5, 2007 conversation, Respondent promised to provide a response within the week. Respondent failed to provide a response.

CONCLUSIONS OF LAW

32. By failing to complete discovery in the breach of contract action, by failing to retain an expert on the McGees' behalf, by failing to file a substitution of attorney and by failing to perform any legal services of value on behalf of the McGee, Respondent intentionally, recklessly or repeatedly failed to perform legal services with competence in wilful violation of Rules of Professional Conduct, rule 3-110(A).
33. By failing to respond to McGee's calls and emails, Respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which Respondent had agreed to provide legal services in wilful violation of Business and Professions Code section 6068(m)
34. By failing to render an appropriate accounting to McGee despite his requests, Respondent wilfully violated Rules of Professional Conduct, rule 4-100(B)(3).
35. By failing to refund any unearned fees to the McGees, Respondent failed to refund unearned monies in wilful violation of Rules of Professional Conduct, rule 3-700(D)(2).
36. By not providing a written response to the allegations in the McGee matter or otherwise cooperating in the investigation of the McGee matter, Respondent failed to cooperate in a disciplinary matter in wilful violation of Business and Professions Code section 6068(i).

RESTITUTION

<u>To</u>	<u>Amount</u>	<u>Plus interest at the rate of 10% from</u>
Steve McGee	\$ 2,500	June 29, 2006

RULE 133 NOTICE OF PENDING PROCEEDINGS

Respondent was notified in writing of any pending investigations not included in this stipulation, pursuant to Rule 133(12), on October 22, 2008.

POTENTIAL INCREASE IN DISCIPLINE

Respondent understands that the matter in this addendum, being additional misconduct, may result in the Office of Chief Trial Counsel seeking – and/or the State Bar Court recommending – additional ADP conditions or increased discipline in the underlying cases, up to and including

disbarment. In addition, his length of participation in the court's Alternative Discipline Program may be extended.

OPPORTUNITY TO SEEK COUNSEL

Respondent acknowledges that he has had full opportunity to read and understand this agreement, and to seek counsel if necessary, prior to signing.

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In the Matter of ROBERT DAVIS BILLS, JR. Bar # 147012	Case number(s): 06-O-14318
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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~~ **acceptance into** 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.

11/6/08
Date

RDB
Respondent's Signature

Robert David Bills, Jr.
Print Name

Nov. 6, 2008
Date

Respondent's Counsel Signature
Monique T. Miller
Deputy Trial Counsel's Signature

Print Name
Monique T. Miller
Print Name

****Rule 803 (b), Rules of Procedure of the State Bar of California, effective July 1, 2008,**

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In the Matter Of ROBERT DAVIS BILLS, JR. Bar # 147012	Case Number(s): 06-O-14318
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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.)

1/24/10 _____
Date Judge of the State Bar Court

RICHARD A. PLATEL

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 January 21, 2010, 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:

ROBERT D BILLS JR
LAW OFC ROBERT D BILLS JR
301 FOREST AVE
LAGUNA BEACH CA 92651

by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:

by overnight mail at , California, addressed as follows:

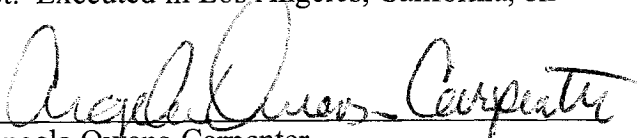
by fax transmission, at fax number . No error was reported by the fax machine that I used.

By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

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

MONIQUE MILLER, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 21, 2010.


Angela Owens-Carpenter
Case Administrator
State Bar Court