

(Do not write above this line.)

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

Counsel For The State Bar Kimberly G. Anderson Acting Supervising Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015-2299 (213) 765-1718 Bar # 222009	Case Number (s) 07-C-10905 07-C-10906	(for Court's use) <p align="center">FILED</p> <p align="center">FEB 14 2008 <i>WJ</i></p> <p align="center">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
Counsel For Respondent Richard Barthel 424 F Street San Diego, CA 92101 Bar # 153333	Submitted to: Assigned Judge	
In the Matter Of: Peter Fraser Bar # 47828 A Member of the State Bar of California (Respondent)	STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

PUBLIC MATTER

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 **January 7, 1971**.
- (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 **12** 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):
 - until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
 - costs to be paid in equal amounts prior to February 1 for the following membership years: **Costs to be paid in equal amounts prior to February 1st for the following two (2) billing cycles following the effective date of the California Supreme Court order. (Hawes v. State Bar (1990) 51. Cal.3d 587, 596.) See additional language on page 11.**
(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.
- (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.
- (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

See page 9.

D. Discipline:

(1) **Stayed Suspension:**

(a) Respondent must be suspended from the practice of law for a period of **two 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:

(b) The above-referenced suspension is stayed.

(2) **Probation:**

Respondent must be placed on probation for a period of **three years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

(3) **Actual Suspension:**

(a) Respondent must be actually suspended from the practice of law in the State of California for a period of **ninety days**.

- 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:

E. Additional Conditions of Probation:

- (1) If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2) During the probation period, 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 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.

- (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 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.
- (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 probation conditions.
- (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) The following conditions are attached hereto and incorporated:
- | | |
|--|---|
| <input checked="" 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 during the period of actual suspension or within one year, whichever period is longer. **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) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.

- (3) **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension: **May 28, 2007.**
- (5) **Other Conditions:**

Respondent understands and agrees to the following evaluation and treatment conditions:

1. Respondent has, with the assistance and approval of the Office of the Chief Trial Counsel, selected a medical doctor certified by the American Society of Addiction Medicine (ASAM) for the purpose of submitting to a substance abuse evaluation (Evaluation). The doctor's name is Richard Lee Stennes, MD, 8070 La Jolla Shores Drive, Suite 466, Associated Emergency Phy Med Group APC, La Jolla, CA 92037-3296, Phone: (619) 806-0115, Fax: (858) 454-9345, stennesgrp@aol.com.

2. Within 45 days of signing this stipulation, Respondent shall provide a complete copy of this stipulation to the approved ASAM certified medical doctor and all treatment providers.

Within 30 days of the effective date of this discipline, Respondent shall provide to the Office of Probation an original, signed declaration from the ASAM certified medical doctor and all treatment providers acknowledging receipt of a complete copy of this stipulation.

3. Within 45 days of signing this stipulation, Respondent shall execute all necessary waivers of confidentiality with the approved ASAM certified medical doctor as well as any treatment providers, including drug testing facilities.

Within 30 days of the effective date of this discipline, Respondent shall provide to the Office of Probation a copy of the waiver provided to the ASAM certified medical doctor as well as all other treatment providers, including drug testing facilities. Also within 30 days of the effective date of this discipline, Respondent shall provide to the Office of Probation an original, signed declaration from the ASAM certified medical doctor as well as all other treatment providers, including drug testing facilities, acknowledging receipt of the waiver.

4. Within 30 days of the effective date of this discipline, Respondent is to undergo an Evaluation with the ASAM certified medical doctor. The evaluation will be for the purposes of (a) determining whether Respondent has a substance abuse or addiction problem, (b) setting treatment conditions Respondent is to undertake as a result of the Evaluation, if any, and (c) obtaining a written report from the evaluating physician. Respondent shall bear all costs of the Evaluation, the resulting report, and any treatment conditions recommended by the evaluator. Respondent understands that his treatment conditions may change if his treatment providers deem it necessary, and that he is to bear the cost of such treatment, which in some cases could include in-patient treatment. Respondent understands that (a) the treatment conditions, if any, shall become part of his probation requirements, (b) he must provide the Office of Probation with any proof of treatment compliance or waiver requested by the Office of Probation, and (c) any violation of the treatment conditions is a violation of the probation requirements.

Within 60 days of the effective date of this discipline, Respondent is to provide a copy of the ASAM certified medical doctor's written report to the Office of Probation.

Within 10 days of any change in treatment condition, Respondent is to provide written notice to the Office of Probation specifically setting forth the changes. With that written notice, Respondent is to provide an original, signed declaration from the ASAM certified medical doctor acknowledging receipt of the written

notice and agreement with its accuracy.

Respondent shall report compliance with the treatment conditions by statement under penalty of perjury in each written quarterly report to the Office of Probation required pursuant to the discipline in this matter.

Respondent shall have his ASAM certified medical doctor submit to the Office of Probation an original, signed declaration that Respondent is in compliance with the treatment of conditions by each January 10, April 10, July 10, and October 10 covered by this discipline. Respondent understands that the declarations and reports may be shared with the Office of the Chief Trial Counsel and the State Bar Court.

5. Respondent understands that treatment conditions associated with other issues or entities, such as a criminal probation, may not satisfy treatment conditions required by this section.

6. If treatment providers are added or changed, Respondent must notify the Office of Probation of the name, address, and telephone number of all such treatment providers within ten days of the retaining of each one. Within 30 days of retaining each such treatment provider, Respondent must provide to the Office of Probation an original signed declaration from the treatment provider stating that it received a complete copy of this stipulation. Also within 30 days of retaining each such treatment provider, Respondent must provide to the Office of Probation an executed waiver of confidentiality as well as an original, signed declaration from the treatment providers acknowledging receipt of the waiver.

7. Respondent has been informed of the existence and nature of the State Bar's Lawyer Assistance Program and of the State Bar Court's Alternative Discipline Program, and Respondent has specifically declined to seek entry into either.

Failure to comply with any of these conditions shall be a violation of the terms of this probation.

Attachment language begins here (if any):

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Peter Fraser

CASE NUMBER(S): 07-C-10905 and 07-C-10906

STIPULATION AS TO FACTS AND CONCLUSIONS OF LAW

Facts

1. On March 29, 2007 Respondent was convicted of two felony violations stemming from a December 9, 2006 incident: 1) possession of methamphetamine in a useable quantity (Health and Safety Code section 11377(a)) and 2) discharge of a firearm in a grossly negligent manner (Penal Code section 246.3).
2. On March 29, 2007, Respondent was also convicted in a separate criminal case of the following felony violation stemming from his arrest on February 15, 2007: possession of methamphetamine in a useable quantity (Health and Safety Code section 11377(a)).
3. On December 9, 2006 Respondent called the police and asked them to come to his home because he claimed there were armed, unwanted guests stealing things from his home. When Respondent answered the door, a handgun was sticking out of his left jacket pocket and a .45 semi automatic sticking out of the right jacket pocket. The officers recovered slugs and spent casings from Respondent's home. The officers also noticed bullet holes in the floor and an exterior wall. The holes in the floor passed through to the garage below, but did not pass through to the exterior of the residence.
4. When the officers arrived, Respondent was hallucinating and making rambling statements about paramilitary people in his residence. Respondent gave officers consent to search his residence and took the officers to a closet where there was an AK-47. The officers also located a shotgun in another closet, a .22 revolver on a nightstand and a .357 on a desk in the living room. Respondent told officers that he had two additional handguns but believed one had been stolen. In an envelope under a couch, officers found 47.18 grams of marijuana, 5.74 grams of methamphetamine, a pipe and a syringe.
5. Respondent was transported to Aurora Behavioral Center for psychiatric evaluation and was held for 72 hours. A warrant for his arrest was then requested.
6. On February 15, 2007 Deputy US Marshall Omar Castillo served the warrant at Respondent's address in San Diego, California. Respondent answered the door at this address and was arrested without incident. Deputy Castillo escorted Respondent to his bedroom to get dressed and searched the pockets of pants Respondent was to put on. Deputy Castillo found a small zip lock type bag containing a white substance, which turned out to be Methamphetamine. Deputy Castillo also noticed in plain view on two dresser tops, more small bags of white crystal like substance and various syringes. The Narcotics

Laboratory tested and weighed the substances, which had a net weight of 1.61 grams and were in fact Methamphetamine.

7. On May 1, 2007, during a scheduled probation interview, Respondent stated that on December 8, 2006 he was at the Beach Comber Bar and Grill. He had dinner and then went to the bar. While at the bar, he saw a guy that he had met several times at various bars in the area. The guy had a female friend with him. He had a couple beers with the couple and then they decided to go to a different bar to play pool. The couple drove him to the other bar since Respondent did not have a car.

8. On the way to the other bar, Respondent began to feel sick and asked them to take him to his apartment. When they arrived to his apartment, he got out of the car and ran to his apartment because he did not want the couple to see him throw up. When he got into the courtyard of the apartment complex, the female told him to let her help him.

9. Once he entered his apartment, he threw up and started hallucinating. He thought the couple was going to come back and rob him. So he grabbed his gun and hid in the bathroom. When he went to load the gun a couple rounds went off. He yelled out the window for his landlord, who lived nearby, to call the cops. His landlord called him on his phone, which was on speaker mode, and told him to just go to sleep and that he was not going to call the cops. Respondent believed the "robbers" heard this since his phone was on speaker mode and he was frightened. He hid in the bathroom for five hours until 8:00 the next morning when he called the cops.

10. In the first criminal conviction case, no. SCD204379, the San Diego Superior Court ordered that Respondent be sentenced to 180 days in custody, stayed, pending successful completion of three years probation. As part of the probation conditions, Respondent is required to participate in treatment, therapy, counseling or other course of conduct as suggested by validated assessment tests. Furthermore, Respondent is required to attend and successfully complete a substance abuse counseling program and to complete a program of residential treatment and aftercare if directed by the probation officer. This sentence was to be served concurrent with the sentence for his second criminal conviction in, case no. SCD204856.

12. The sentence in Respondent's second criminal case was almost identical to the sentence in his first criminal case. The probation period for both criminal cases expires on May 21, 2010.

Conclusions of Law

13. The facts and circumstances surrounding Respondent's conviction do not involve moral turpitude but do involve other misconduct warranting discipline pursuant to Business and Professions Code sections 6101 and 6102.

MITIGATING CIRCUMSTANCES

No Prior Record of Discipline

Although the misconduct herein is serious, Respondent has no prior record of discipline since being admitted to the practice of law on January 7, 1971 and is entitled to some mitigation. (*Hawes v. State Bar* (1990) 51. Cal.3d 587, 596.)

AUTHORITIES SUPPORTING DISCIPLINE

Standards For Attorney Sanctions For Professional Misconduct.

Standard 3.4 states, "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 if these standards appropriate to the nature and extent of the misconduct found to have been committed by the member."

Standard 2.6, subdivision (a), under part B of the standards, provides that culpability of a member of violation of Business and Professions Code section 6068 shall result in disbarment or suspension depending on the gravity of the offense or harm. Respondent has violated Business and Professions Code section 6068, subdivision (a), by failing to support the laws of California.

Case Law

In *In re Otto* (1989) 48 Cal.3d 970, the California Supreme Court ordered that an attorney, convicted of two felonies be suspended from the practice of law for a period of two years, stayed, and that he be placed on probation for two years, with conditions including six months actual suspension. The attorney was convicted of Penal Code section 245, subdivision (a), assault by means likely to produce great bodily injury and Penal Code section 273.5, infliction of corporal punishment on a cohabitant of the opposite sex resulting in traumatic condition. (See *id.* at p. 971.) Both counts were reduced to misdemeanors and he served ninety days in jail. (See *id.*)

In *In re Hickey* (1990) 50 Cal.3d 571 the California Supreme Court ordered that an attorney who had been convicted of Penal Code section 12025, subdivision (b), carrying a concealed weapon, be suspended from the practice of law for three years, stayed, and that he be placed on probation for three years upon all the conditions, including actual suspension for the first thirty days of the probationary period. (See *id.* at pp. 581-582.) The attorney's conviction resulted after an incident, which began at a nightclub when the attorney struck his wife on the side of her head with a gun. (See *id.* at p. 574.) Thereafter, she took refuge with a neighbor, Clark Garen. (See *id.*) The attorney approached the door of Garen's house and threatened his wife. (See *id.*) Both Garen and the attorney's wife heard a sound outside the house that sounded like a gunshot. (See *id.*) The next morning, the attorney's wife called the police to the residence because of the attorney's conduct. (See *id.*) The police observed the attorney emerge from his property carrying a handgun, which protruded about two inches from the top of his waistband, and arrested him. (See *id.*)

The attorney in *Hickey* had also been arrested in an earlier incident, a month before the incident described above. (See *id.* at p. 575.) Although there was no disciplinary referral, the evidence of his conduct was before the hearing panel by stipulation as a circumstance surrounding his conviction. (See *id.*) As a result of that incident, the attorney was charged with misdemeanor violations of Penal Code sections 245, subdivision (a)(1), for assault with a deadly weapon and 273.5 for spouse abuse. (See *id.* at p. 576.) The criminal proceedings against the attorney were suspended for the purpose of granting diversion and he was referred to the anger awareness program. (See *id.*) The attorney also violated Rules of Professional

Conduct, former rule 2-111(A)(1), but the Supreme Court stated that this violation had little weight in their decision. (See *id.*)

In *Hickey*, the Supreme Court agreed that the facts and circumstances surrounding the conviction did not constitute moral turpitude, but it did constitute misconduct warranting discipline. (See *id.* at p. 577.) The Court noted that although the incidents in question did not arise out of the attorney's legal activities and the violence was not directed at his clients or his clients' adversaries, those facts do not preclude the State Bar from taking appropriate disciplinary action to prevent attorney's uncontrolled consumption of liquor from affecting his practice of law. (See *id.* at p. 579.) The Court further found that when an attorney's alcoholism has led him to engage in violent criminal conduct, the State Bar need not wait until the attorney injures a client or neglects his legal duties before it may impose a discipline to ensure protection of the public. (See *id.*)

In *In re Carr* (1988) 46 Cal. 3d 1089 the attorney had pled no contest to two separate counts of driving under the influence of alcohol in 1983 and 1984. The California Supreme Court concluded that the attorney's conduct did not involve moral turpitude, but it did involve other misconduct warranting discipline. (See *id.* at 1091.) The attorney was currently on suspension for another disciplinary matter; and, therefore had one prior record of discipline. (See *id.*) The Court ordered that the attorney be suspended from the practice of law for two years, stayed, and placed on probation for five years on the condition that he is actually suspended for the six months effective upon termination of his current suspension. (See *id.*)

Unlike the attorney in *Otto*, Respondent did not physically hurt anybody, except perhaps himself. Furthermore, unlike the attorney in *Hickey*, Respondent did not threaten to harm anyone, nor did he intend to intimidate anyone with his gun. However, similar to the attorneys in *Hickey* and *Carr*, Respondent has a history of substance abuse, which may affect his practice of law. Moreover, Respondent is fortunate that no one was physically harmed when his firearm went off. Had the situation been different, someone could have easily been injured or killed.

ESTIMATE OF COSTS OF DISCIPLINARY PROCEEDINGS

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of January 28, 2008, the estimated prosecution costs in this matter are approximately \$3530.00. Respondent acknowledges that this figure is an estimate only. 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.

If Respondent fails to pay any installment within the time provided herein or as may be modified by the State Bar Court pursuant to section 6068.10, subdivision (c), the remaining balance of the costs is due and payable immediately and enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment unless relief has been granted under the Rules of Procedure of the State Bar of California. (Rules Proc. of State Bar, rule 286.)

PENDING PROCEEDINGS

The disclosure date referred to on page one, paragraph A.(7) was January 31, 2008.

(Do not write above this line.)

In the Matter of Peter Fraser	Case number(s): 07-C-10905 and 07-C-10906
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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>2/5/08</u> Date	 Respondent's Signature	<u>Peter Fraser</u> Print Name
<u>2/5/08</u> Date	 Respondent's Counsel Signature	<u>Richard Barthel</u> Print Name
_____ Date	_____ Deputy Trial Counsel's Signature	<u>Joy Chantarasompoth</u> Print Name

(Do not write above this line.)

In the Matter Of PETER FRASER	Case Number(s): 07-C-10905 07-C-10906
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ORDER

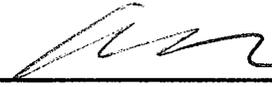
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- 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.

*SECTION F (2) on PAGE 5 - CHECK BOX REQUIRED
COMPLIANT WITH RULE 9.20, CAL. RULES OF COURT*

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.)**

02-08-08
Date


RICHARD A. PLATEL
Judge of the State Bar Court

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 February 14, 2008, I deposited a true copy of the following document(s):

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

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:

**RICHARD BARTHEL
424 F ST
SAN DIEGO CA 92101**

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

KIMBERLY ANDERSON, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **February 14, 2008**.


Angela Owens-Carpenter
Case Administrator
State Bar Court