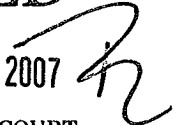


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**State Bar Court of California
Hearing Department
Los Angeles**

<p>Counsel For The State Bar</p> <p>Suzan J. Anderson Deputy Trial Counsel 1149 S. Hill Street Los Angeles, California 90015 (213) 765-1209</p> <p>Bar # 160559</p>	<p>Case Number (s) 07-C-11903-DFM</p>	<p>(for Court's use)</p> <p align="center">PUBLIC MATTER</p> <p align="center">FILED</p> <p align="center">SEP 24 2007 </p> <p align="center">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>Counsel For Respondent</p> <p>Kevin Gerry 1001 Olive Street Santa Barbara, California 93101 (805) 899-2990</p> <p>Bar # 129690</p>	<p>Submitted to: Assigned Judge</p>	
<p>In the Matter Of: Robert Edward Kasody</p> <p>Bar # 215994</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 3, 2001**.
- (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."



(Do not write above this line.)

- (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:
(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

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. **Please see attachment page 11**
- (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. **Please see attachment page 11**
- (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 **one (1) year**.

- 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 **one (1) year**, 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:
- Substance Abuse Conditions Law Office Management Conditions
- Medical Conditions 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:**

COMPLIANCE WITH BROTMAN MEDICAL CENTER INTENSIVE OUTPATIENT PROGRAM (BROTMAN PROGRAM)

Respondent shall comply with all provisions and conditions of his participation plan with the Brotman Program, and all modifications thereto, until such time as he graduates from Brotman Program or until the expiration of this Stipulation, whichever is sooner. within 14 calendar days from the effective date of this discipline, Respondent shall provide the Office of Probation with a copy of the waiver which he has signed with Brotman Program that authorizes the Brotman Program to provide the Office of Probation with information regarding his compliance with Brotman Program. Revocation of this written waiver would be a violation of Respondent's probation. In addition, each quarter and before the due date of his final report, Respondent shall request and obtain from Brotman Program written proof of his compliance with Brotman Program, and provide the original of the Brotman Program compliance report to the Office of Probation withing his written report. The written Brotman Program compliance report shall be dated not sooner than 10 calendar days prior to the date Respondent submits his required written reports to the Office of Probation.

(Do not write above this line.)

Attachment language (if any):

Please see attachment pages 8 through 11.

In the Matter of
Robert Edward Kasody

Case number(s):
07-C-11903-DFM

Substance Abuse Conditions

- a. Respondent must abstain from use of any alcoholic beverages, and shall not use or possess any narcotics, dangerous or restricted drugs, controlled substances, marijuana, or associated paraphernalia, except with a valid prescription.
- b. Respondent must attend at least **ten (10)** meetings per month of:
- Alcoholics Anonymous
 - Narcotics Anonymous
 - The Other Bar
 - Other program

As a separate reporting requirement, Respondent must provide to the Office of Probation satisfactory proof of attendance during each month, on or before the tenth (10th) day of the following month, during the condition or probation period.

- c. Respondent must select a license medical laboratory approved by the Office of Probation. Respondent must furnish to the laboratory blood and/or urine samples as may be required to show that Respondent has abstained from alcohol and/or drugs. The samples must be furnished to the laboratory in such a manner as may be specified by the laboratory to ensure specimen integrity. Respondent must cause the laboratory to provide to the Office of Probation, at the Respondent's expense, a screening report on or before the tenth day of each month of the condition or probation period, containing an analysis of Respondent's blood and/or urine obtained not more than ten (10) days previously.
- d. Respondent must maintain with the Office of Probation a current address and a current telephone number at which Respondent can be reached. Respondent must return any call from the Office of Probation concerning testing of Respondent's blood or urine within twelve (12) hours. For good cause, the Office of Probation may require Respondent to deliver Respondent's urine and/or blood sample(s) for additional reports to the laboratory described above no later than six hours after actual notice to Respondent that the Office of Probation requires an additional screening report.
- e. Upon the request of the Office of Probation, Respondent must provide the Office of Probation with medical waivers and access to all of Respondent's medical records. Revocation of any medical waiver is a violation of this condition. Any medical records obtained by the Office of Probation are confidential and no information concerning them or their contents will be given to anyone except members of the Office of Probation, Office of the Chief Trial Counsel, and the State Bar Court who are directly involved with maintaining, enforcing or adjudicating this condition.

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: ROBERT EDWARD KASODY

CASE NUMBER(S): 07-C-11903-DFM

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that he/she is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

FACTS

1. On June 22, 2005, at 1:28 a.m., Respondent was arrested and charged with a violation of California Vehicle Code section 23152(A), (driving under the influence of alcohol/drugs) near the intersection of Wilshire Boulevard and South Camden Drive. During the arrest, Respondent refused to take any of the field sobriety tests the officer requested. Respondent also refused to take a blood or breath test. Respondent was booked into custody at the Beverly Hills Police Department, but due to a female already in the sobering cell, Respondent was transported to the West Hollywood Sheriff Station where he was held pending his release. Respondent was released from custody later that morning.

2. On April 13, 2006, a misdemeanor complaint was filed against Respondent which alleged that:

“On or about June 22, 2005, in the County of Los Angeles, the crime of DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS, in violation of VEHICLE CODE SECTION 23152(a), a Misdemeanor, was committed by ROBERT EDWARD KASODY, who did unlawfully. while under the influence of an alcoholic beverage and a drug and under their combined influence, drive a vehicle.

It is further alleged, pursuant to sections 23550 and 23550.5, that the defendant has suffered the following prior conviction(s):

<u>Off Date</u>	<u>Conv Date</u>	<u>Code/Section</u>	<u>Court</u>	<u>Docket #</u>
05/23/2002	11/15/2002	VC/23152(b)	19460	200805"

3. On April 20, 2006, the case was called for arraignment and Respondent pled not

guilty to Count 1, Vehicle Code 23152(A).

4. On August 16, 2006, after a trial by jury, the jury found Respondent guilty of the offense charged, a violation of section 23152(A) of the Vehicle Code, Driving under the Influence of Alcohol. The jury further found the allegation that Respondent willfully refused to complete a blood alcohol test in violation of Vehicle Code section 23577, to be true.

5. On December 5, 2006, Respondent was sentenced and placed on summary probation for a period of 60 days under conditions including 14 days in Los Angeles County Jail.

CONCLUSIONS OF LAW

The facts and circumstances surrounding Respondent's violation of section 23152(A) of the California Vehicle Code did not involve moral turpitude, but did involve other conduct warranting discipline. Respondent acknowledges by the conduct described above, he failed to support the laws of this state in wilful violation of California Business and Professions Code section 6068(a).

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was August 30, 2007.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of August 29, 2007, the costs in this matter are \$1,636.00. 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.

PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING.

1. This is a proceeding pursuant to sections 6101 and 6102 of the Business and Professions Code and rule 9.10 of the California Rules of Court.
2. On August 16, 2006, Respondent was convicted of violating California Vehicle Code section 23152(a) - driving while under the influence of alcohol, a misdemeanor.
3. On June 12, 2007, the Review Department of the State Bar Court issued an order referring the matter to the Hearing Department on the following issues: whether there is probable cause to believe that the facts and circumstances surrounding the offense involved moral

turpitude.

4. On August 23, 2007, the Review Department issued an augmented order referring the matter to the Hearing Department on the following issues: a recommendation of discipline to be imposed in the event the Hearing Department finds that the facts and circumstances surrounding the offense of which Respondent was convicted involved moral turpitude or other misconduct warranting discipline.

AUTHORITIES SUPPORTING DISCIPLINE.

AUTHORITIES SUPPORTING DISCIPLINE.

Pursuant to Standard 1.3, the primary purposes of disciplinary proceedings and imposing sanctions for professional misconduct are, “the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys; and the preservation of public confidence in the legal profession.”

With respect to the criminal conviction, Standard 3.4 provides:

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 of these standards appropriate to the nature and extent of the misconduct found to have been committed by the member.

By definition, every criminal conviction involves a violation of Business and Professions Code section 6068(a). Pursuant to Standard 2.6, the culpability of a member of a violation of Business and Professions Code section 6068, “shall result in disbarment or suspension depending on the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3.”

The Supreme Court gives the Standards “great weight,” and will reject a recommendation consistent with the Standards only where the Court entertains “grave doubts” as to its propriety. *In re Naney* (1990) 51 Cal. 3d 186, 190; *see also In re Silvertan* (2005) 36 Cal. 4th 81, 91, 92. Further, although the Standards are not mandatory, it is well established that the Standards may be deviated from only when there is compelling, well-defined reason to do so. *See Aronin v. State Bar* (1990) 52 Cal. 3d 276, 291; *see also Bates v. State Bar* (1990) 52 Cal. 3d 1056, 1060, fn. 2.

In re Kelley (1990) 52 Cal.3d 487

Kelley was convicted of two separate driving under the influence charges at different times. Kelley initially refused to take a field sobriety test during the second arrest, but ultimately complied when a second police officer arrived at the scene. The Supreme Court found that this did not constitute moral turpitude, but that there was some nexus between Kelley's conduct and her fitness to practice law. The Court determined that Kelley should receive some discipline, but limited it to a public reproof and a 3-year probation.

In the Matter of Anderson (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 208

Anderson was convicted of four separate driving under the influence charges at different times. In the third of which he pushed the officer backwards, causing him to fall. Anderson returned to his car and, when the officer tried to turn off the car's ignition, Anderson pushed the officer's hand away, put the car in gear and drove off into the night at high speed without headlights. The officer suffered a minor cut to his hand. The Court found that even here, there was no moral turpitude, but imposed a 60-day actual suspension and 1-year stayed suspension due to these violations.

Respondent's conduct falls between *Kelley* and *Anderson*. Respondent's conduct goes beyond *Kelley* in that he refused at all times to take any field sobriety tests and blood or breath tests, but does not rise to the level of the conduct in *Anderson*. Accordingly, the one-year stayed suspension and one-year probation falls within the case law and follows the Standards.

MITIGATING CIRCUMSTANCES.

Respondent has been a licensed attorney for 6 years and has no prior record of discipline. Std. 1.2(e)(i).

Throughout this proceeding, Respondent cooperated fully with the State Bar and was willing to discuss this matter, answer any questions which were posed by the State Bar, and entered into this comprehensive stipulation. Std. 1.2(e)(v).

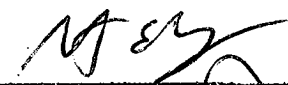

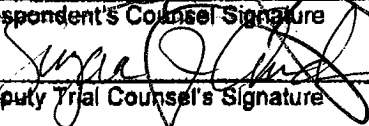
Respondent voluntarily enrolled in the Brotman Medical Center Intensive Outpatient Program after this conviction. Std. 1.2(e)(vii).

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In the Matter of Robert Edward Kasody	Case number(s): 07-D-11903-DFM
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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.

Date 9/10/2007		Robert Edward Kasody Print Name
Date 9-11-07		Kevin Gerry Print Name
Date 9/19/07		Suzan J. Anderson Print Name

(Do not write above this line.)

In the Matter Of
Robert Edward Kasody

Case Number(s):
07-C-11903-DFM

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.)**

9/21/07

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 September 24, 2007, 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:

- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

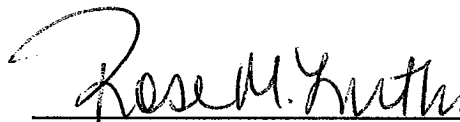
PHILLIP FELDMAN, ESQ.
LAW OFC PHILLIP FELDMAN
15250 VENTURA BLVD #610
SHERMAN OAKS, CA 91403

KEVIN P. GERRY, ESQ.
1001 OLIVE ST
SANTA BARBARA, CA 93101

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

SUZAN ANDERSON, ESQ., Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **September 24, 2007**.



Rose M. Luthi
Case Administrator
State Bar Court