


**State Bar Court of California  
Hearing Department  
San Francisco  
ALTERNATIVE DISCIPLINE PROGRAM**

<p>Counsel For The State Bar</p> <p>Maria J. Oropeza 180 Howard Street, 7th Floor San Francisco, CA 94105 (415) 538-2569</p> <p>Bar # 182660</p>	<p>Case Number (s) 07-C-14263</p> <p>kwiktag® 026 805 346</p> 	<p>(for Court's use)</p> <p><b>FILED</b> <i>[Signature]</i></p> <p>AUG 03 2009</p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>Counsel For Respondent</p> <p>Carol Langford 100 Pringle Avenue, Suite 570 Walnut Creek, CA 94596 (925) 938-3870</p> <p>Bar # 124812</p>	<p>Submitted to: <b>Program Judge</b></p> <p><b>STIPULATION RE FACTS AND CONCLUSIONS OF LAW</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter Of: David R. Knutsen</p> <p>Bar # 248944</p> <p>A Member of the State Bar of California (Respondent)</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 June 1, 2007.
- (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, except as otherwise provided in rule 804.5(c) of the Rules of Procedure, if Respondent is not accepted into the Alternative Discipline 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 6 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".

- (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
  - (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. Respondent did not want exit his vehicle so that the arresting officer could conduct the field sobriety tests (FST).
- (8)  **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

This is respondent's second conviction for driving under the influence. Respondent was previously convicted in August 2006, prior to his admission into the practice of law and was on probation for that conviction.

**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. On May 24, 2007, respondent immediately enrolled in Duffy's residential treatment facility and completed a 28-day program.
- (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:                      David R. Knutsen  
CASE NUMBER(S): ET AL.              07-C-14263

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 AND CONCLUSIONS OF LAW.**

**Statement of Facts:**

1.        On May 22, 2007, Officer A.J. Rakela was on duty patrolling Southbound 101 in San Mateo County. Officer Rakela noticed respondent's vehicle was having difficulty maintaining its lane position. Officer Rakela followed respondent's vehicle for a time period and when respondent's vehicle veered towards another vehicle, he activated the lights on his cruiser to initiate the traffic stop.
2.        Respondent exited the freeway at the Poplar Avenue exit and subsequently was approached by Officer Rakela.
3.        Respondent informed Officer Rakela that he had not been drinking anything that evening. Officer Rakela administered the Field Sobriety Tests, which respondent failed. Based on his observations of respondent's general appearance inclusive of water-eyes, odor of alcohol, slurred speech and the failure of the FSTs, Officer Rakela arrested respondent for driving under the influence.
4.        On May 22, 2007, respondent was arrested for driving under the influence.
5.        On May 22, 2007, at the time of his arrest, respondent's blood alcohol concentration was .12%, over the legal limit of .08%.
6.        On June 22, 2007, respondent was charged in a two count criminal complaint, with prior allegations. Count one was a violation of Vehicle Code §23152(a). Count two was a violation of Vehicle Code § 23152(b).
7.        On January 9, 2008, the criminal complaint was amended to include the enhancement of a violation of Vehicle Code § 23577(A)(3), refusing to submit to chemical tests.
8.        On September 2, 2008, respondent entered a guilty plea to count two of the criminal complaint, however the enhancement allegation was dropped from the complaint.
9.        On September 2, 2008, respondent was convicted of a misdemeanor violation of California Vehicle Code §23152(b). Respondent was ordered to pay a fine in the amount of \$1924.00; placed on probation for a period of three years, ordered to serve 30 days in county jail, with credit for time served; and ordered to enter and complete the Multiple Offender Program ("MOP") pursuant to Senate Bill 38; and his license was restricted. In addition to the aforementioned conditions, respondent was also ordered not to drive with any amount of alcohol in his system; not allowed to enter any public place where the primary item sold or dispensed is alcohol; ordered not to use or possess alcohol, narcotics and illegal drugs. In addition, respondent shall not refuse to submit to a chemical test of his blood, breath or urine pursuant to Vehicle Code §23152 or 23153.

**Conclusions of Law:**

10.       Respondent's conduct on May 22, 2007, demonstrates violations of Business and Professions Code §§ 6068(A); and 6103.

## **PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A.(7), was May 18, 2009.

## **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of May 18, 2009, the prosecution costs in this matter are \$1636.00. 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 §§ 6101 and 6102 of the Business and Professions Code and rule 9.10 of the California Rules of Court.
2. On September 2, 2008, respondent was convicted of violating Vehicle Code § 23152(B).
3. On December 19, 2008, the Review Department of the State Bar Court issued an order referring the matter to the Hearing Department on the following issues: for a hearing and decision recommending discipline to be imposed in the event that the Hearing Department finds that the facts and circumstances surrounding the violation of Vehicle Code § 23152(b) involved moral turpitude or other conduct warranting discipline.

## **AGGRAVATING CIRCUMSTANCES.**

1. Respondent refused to exit his vehicle when asked by the arresting officer to do so. The arresting officer had to make the request six to seven times before respondent complied with the request.
2. Respondent has a prior driving under the influence conviction (Vehicle Code §23152(a)) which took place in August 2006, prior to his admission of law. Respondent was placed on criminal probation for three years for that conviction. One of the terms of the criminal probation was that he abstain from alcohol consumption while driving a vehicle.

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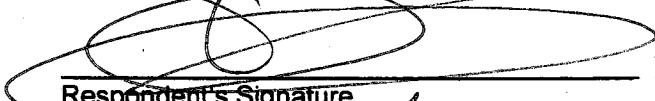

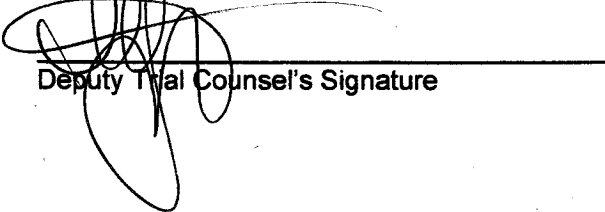
### SIGNATURE OF THE PARTIES

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, this Stipulation will be filed and will become public. Upon Respondent's successful completion of or termination from the Program, the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Confidential Statement of Alternative Dispositions and Orders shall be imposed or recommended to the Supreme Court.

<u>6-7-09</u> Date		David R. Knutsen Print Name
<u>5-27-09</u> Date		Carol Langford Print Name
<u>6-8-09</u> Date		Maria J. Oropeza Print Name

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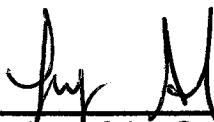
### ORDER

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(a), Rules of Procedure.)

Aug. 3, 2008  
Date

  
Judge of the State Bar Court  
Lucy Armendariz

**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 San Francisco, on August 3, 2009, I deposited a true copy of the following document(s):

STIPULATION RE FACTS AND CONCLUSIONS OF LAW

By personal service, addressed as follows:

DAVID ROBERT KNUTSEN  
180 HOWARD ST, 6<sup>TH</sup> FLR  
SAN FRANCISCO, CA 94105

MARIA OROPEZA  
180 HOWARD ST, 6<sup>TH</sup> FLR  
SAN FRANCISCO, CA 94105

CAROL LANGFORD  
180 HOWARD ST, 6<sup>TH</sup> FLR  
SAN FRANCISCO, CA 94105

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on August 3, 2009.



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Bernadette C. O. Molina  
Case Administrator  
State Bar Court