

State Bar Court of California
Hearing Department
San Francisco

<p>Counsel For The State Bar</p> <p>Maria J. Oropeza Office of the Chief Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2569</p> <p>Bar # 182660</p>	<p>Case Number (s) 07-J-10268</p>	<p>(for Court's use)</p> <p>PUBLIC MATTER</p> <p>FILED <i>ADS</i></p> <p>OCT 21 2008</p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>Counsel For Respondent</p> <p>Lindsay Slatter Fishkin and Slatter 1111 Civic Drive, Suite 215 Walnut Creek, 94596 (925) 944-5600</p> <p>Bar # 72692</p>	<p>Submitted to: Assigned Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>PUBLIC REPROVAL</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter Of: Craig S. Jepson</p> <p>Bar # 132150</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 **December 11, 1987**.
- (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 **11** 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):

- costs added to membership fee for calendar year following effective date of discipline (public reproof)
- case ineligible for costs (private reproof)
- costs to be paid in equal amounts for the following membership years:
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
- costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
- costs entirely waived

- (9) The parties understand that:

- (a) A private reproof imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
- (b) A private reproof imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
- (c) A public reproof imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

- (1) **Prior record of discipline** [see standard 1.2(f)]
- (a) State Bar Court case # of prior case
- (b) Date prior discipline effective
- (c) Rules of Professional Conduct/ State Bar Act violations:
- (d) Degree of prior discipline
- (e) If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline."
- (2) **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.

- (3) **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

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

- (1) **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice
- (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:

D. Discipline:

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

or

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

E. Conditions Attached to Reproof:

- (1) Respondent must comply with the conditions attached to the reproof for a period of **one year**.
- (2) During the condition period attached to the reproof, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the condition period attached to the reproof. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of the reproof during the preceding calendar quarter. Respondent must also state in each report whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 (thirty) days, that report must be submitted on the next following quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the condition period and no later than the last day of the condition period.

- (6) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the monitor.
- (7) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the conditions attached to the reproof.
- (8) Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason:
- (9) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year of the effective date of the reproof.

No MPRE recommended. Reason: **Respondent took and passed the MPRE in March 2007 with a scaled score of 127.**

- (11) The following conditions are attached hereto and incorporated:

- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Craig S. Jepson, Bar No. 132150

CASE NUMBER(S): 07-J-10268 ET AL.

FACTS AND CONCLUSIONS OF LAW.

The parties waive any variance between the Notice of Disciplinary Charges filed on, November 27, 2007 and the statement of facts and conclusions of law contained in this stipulation of facts.

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.

Statement of Facts: Count One (Case No. 07-J-10268)

1. Craig S. Jepson ("respondent") was admitted to the practice of law in the State of California on December 11, 1987 was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.

2. Respondent wilfully violated Business and Professions Code, section 6068(a), by failing to carry out his common law fiduciary duty to be truthful to his employer, as follows:

3. Respondent was the subject of a disciplinary hearing in the State of New Hampshire.

4. Respondent executed a stipulation of facts regarding his misconduct in the State of New Hampshire admitting to violations of Rule 8.4(c) and 8.4(a) of the Rules of Professional Conduct for the State of New Hampshire. Based on that the stipulation the Professional Conduct Committee recommended to the Supreme Court of New Hampshire that discipline be imposed upon respondent.

5. On December 21, 2006 the Professional Conduct Committee of the New Hampshire Supreme Court imposed a public censure on respondent for misconduct committed in that jurisdiction.

6. The December 21, 2006 public censure is final.

7. Respondent was an attorney licensed to practice law in New Hampshire. He was admitted to the New Hampshire Bar on January 18, 2005.

8. Respondent worked as a full-time tenured professor of law at the Franklin Pierce Law Center in New Hampshire. Respondent had a fiduciary obligation to be truthful with his employer.

9. Respondent was appointed to serve on a faculty committee charged with

assessing the performance and qualifications of Professor Chris Johnson in connection to Professor's Johnson's application for tenure. He served on the committee for the academic year 2005-2006.

10. The process of reviewing the performance and qualifications of law professors at the law center was an integral part of the law program designed to produce well-educated, responsible and competent attorneys.

11. Among other responsibilities as a member of the committee, respondent was required to attend classes conducted by Professor Johnson and to submit a report of his observations to the committee chair, Professor Kirkland.

12. Respondent prepared and submitted a report to Professor Kirkland describing his observations of Professor Johnson's criminal procedure classes of February 6 and 13, 2006.

13. Respondent described the classes in detail, including the subjects covered, the nature of the assignments, and students responses. Respondent obtained the information he included in his report via the anonymous e-mails that law students had submitted to the tenure committee. He offered one point of criticism, but was generally very complimentary of Professor's Johnson's performance and qualifications.

14. The report submitted by respondent was a fabrication. Respondent had not attended any of Professor Johnson's classes.

15. In response to the initial informal inquiries by other committee members, respondent reiterated falsely that he had attended the classes.

16. Once it was established by the committee members that respondent's report was a fabrication, respondent admitted his misconduct and apologized to the entire faculty.

17. In a message he sent on April 6, 2006 to Professor Johnson, he stated "that was stupid and willful, but please believe this: I meant no harm."

18. Professor Johnson was granted tenure by unanimous vote of the committee.

19. Respondent's misconduct did not prejudice Professor Johnson's candidacy.

20. Respondent described his personal circumstances and his reasons for engaging in the conduct, and further represented that he was familiar with Professor Johnson's teaching skills and believed he was well qualified for tenure.

21. Respondent resigned from the faculty of the law center.

22. Respondent prepared and filed a false report to the committee at the law center that was responsible for determining whether Professor Johnson should be granted tenure.

23. Respondent lied about attending Johnson's classes and about his observations that would be considered in conjunction with Professor Johnson's application for tenure.

24. Respondent's aforementioned acts were undertaken in response to his personal views regarding the tenure consideration process and other conditions and issues he perceived at the law center.

25. Having assumed a fiduciary duty to the law school, respondent had the same high duty of honesty, candor and obedience. Respondent's misconduct involved a breach of his fiduciary duty of honesty, candor and obedience towards the law school. (*In the Matter of Dale* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798, 810).

Conclusions of Law: Count One (Case 07-J-10268)

26. By submitting a false report to the tenure committee, when he knew it was false, respondent wilfully violated his fiduciary duty to the law school in violation of Business and Professions Code section 6068(a).

AGREEMENTS AND WAIVERS PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6049.1.

Respondent's culpability determined in the disciplinary proceeding in the New Hampshire Supreme Court would warrant the imposition of discipline in the State of California under the laws or rules in effect in this State at the time the misconduct was committed; and

The proceeding in the above jurisdiction provided respondent with fundamental constitutional protection.

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was September 26, 2008.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of September 26, 2008, the costs in this matter are \$4569.00. 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.

AUTHORITIES SUPPORTING DISCIPLINE.

It is well established that an attorney cannot create or leave undisturbed a false impression. (See *Arm v. State Bar* (1990) 50 Cal.3d. 763, 775.) No distinction is drawn among concealment, half-truth, and false statement of fact. (*In the Matter of Chesnut* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166, 174.) An attorney's violation of the duty arising in a fiduciary or confidential relationship warrants discipline even in the absence of an attorney-client relationship. (*In the Matter of Dale* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798, 810)

In the Matter of Jeffers (Review Dept.) 3 Cal. State Bar Ct. Rptr. 211, the Review Department imposed a one-year stayed suspension on Jeffers because he failed to appear at

Mandatory Settlement Conference ("MSC") and because he failed to disclose at earlier MSC that his client had died. Jeffers was charged with violations of Rule 5-200 and Business and Professions Code section 6068(b), 6068(d) and 6106. The Review Department found extensive mitigation, including 40 years of practice with no priors and charitable activities.

Sullins v. State Bar (1975) 15 Cal.3d 609 - The Supreme Court imposed a public reproof on an attorney for nondisclosure of material facts (existence of a letter) in connection with a court's determination of respondent's petition for approval of a 50% contingency fee. The Court considered the attorney's 45 years in practice as a mitigating factor.

Davidson v. State Bar (1976) 17 Cal.3d 570 - The Supreme Court imposed a public reproof for nondisclosure of material facts to family law judge, which it determined involved moral turpitude. Davidson had a prior public reproof.

In the Matter of Respondent K (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 335 - respondent wilfully violated former rule 8-101(A)(2) by failing to keep the disputed portion of a legal fee in a trust account until the resolution of a fee dispute; the Review Department found that respondent did not violate section 6106 by misrepresenting the status of award of the attorney's fee; no prior discipline [private reproof]

Moesian v. State Bar (1972) 8 Cal.3d 60 - The Supreme Court imposed a public reproof on an attorney who testified *as a witness* under oath in civil proceeding against a family member regarding her reputation for sexual chastity and whose testimony was false.

Mushrush v. State Bar (1976) 17 Cal.3d 487 - The Supreme Court imposed a public reproof on an attorney because the attorney made false statements to bankruptcy court.

Di Sabatino v. State Bar (1980) 27 Cal.3d 159, 162-163 - The Supreme Court imposed a public reproof on the attorney for nondisclosure of material facts to a bail commissioner.

AGGRAVATING CIRCUMSTANCES.

Dishonesty: Respondent's misconduct involved dishonesty.

MITIGATING CIRCUMSTANCES.

No prior Discipline History: Respondent has been a member of the California since 1987 and has no prior imposition of discipline.

Lack of Harm: No individuals were harmed as a result of respondent's misconduct.

Remorse: The New Hampshire Supreme Court found that respondent had demonstrated genuine remorse.

Other Mitigating Factors: During the pendency of this disciplinary proceeding respondent sought to be admitted to the State Bar of Texas. Respondent informed the State Bar of Texas that he

had been disciplined in both New Hampshire and Washington for the misconduct delineated above. In addition he also notified the State Bar of Texas about the pendency of this disciplinary matter.

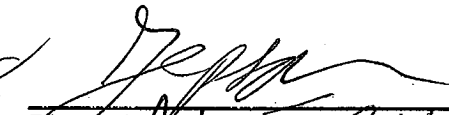
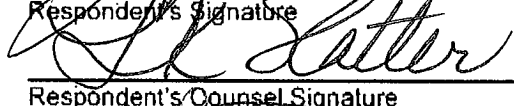
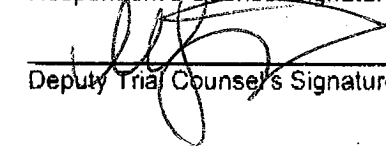
As part of the admission process in Texas, respondent was required to prove that he was of good moral character. Initially, the State Bar of Texas denied respondent a finding of good moral character. The State Bar of Texas held a moral character hearing on January 10, 2008. The subject of that hearing was respondent's misconduct in New Hampshire and subsequent disciplinary impositions in New Hampshire and Washington. New Hampshire imposed a public censure on December 21, 2006 and Washington imposed a public reprimand on April 10, 2007. On January 10, 2008 after a full hearing was had, the Board of Law Examiners for the State of Texas, found that respondent was of good moral character and on January 17, 2008 respondent was admitted into practice in the State of Texas.

(Do not write above this line)

In the Matter of Craig S. Jepson, Bar No. 132150	Case number(s): 07-J-10268
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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>10 Oct 2008</u> Date	 Respondent's Signature	<u>Craig S. Jepson</u> Print Name
<u>Oct. 13, 2008</u> Date	 Respondent's Counsel Signature	<u>Lindsay Slatter</u> Print Name
<u>10/15/08</u> Date	 Deputy Trial Counsel's Signature	<u>Maria J. Oropeza</u> Print Name

(Do not write above this line.)

In the Matter Of
Craig S. Jepson

Case Number(s):
07-J-10268

ORDER

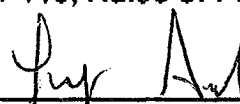
Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproof, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- The stipulated facts and disposition are APPROVED AND THE REPROVAL IMPOSED.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- All court dates in the Hearing Department are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 125(b), Rules of Procedure.) **Otherwise the stipulation shall be effective 15 days after service of this order.**

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

Oct. 29, 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 October 21, 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:

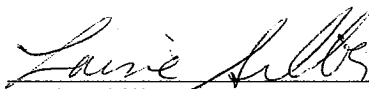
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

LINDSAY KOHUT SLATTER
FISHKIN & SLATTER LLP
1111 CIVIC DR STE 215
WALNUT CREEK, CA 94596

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

Maria J. Oropeza, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on October 21, 2008.



Laine Silber
Case Administrator
State Bar Court