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State Bar Court of California Hearing Department Los Angeles		
Counsel For The State Bar Jean H. Cha Deputy Trial Counsel 1149 South Hill Street Los Angeles, California 90015 (213) 765-1000 Bar # 228137	Case Number (s) 07-N-11696-DFM	(for Court's use) <div style="text-align: center; font-size: 1.2em; font-weight: bold;">PUBLIC MATTER</div> <div style="text-align: center; font-size: 1.5em; font-weight: bold;">FILED</div> <div style="text-align: center;"> AUG 21 2008 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
In Pro Per Respondent James Michael Simmons 2205 N. 9 th Street Phoenix, AZ 58006 (310) 989-1269 Bar # 159726	Submitted to: Settlement Judge	
In the Matter Of: James Michael Simmons Bar # 159726 A Member of the State Bar of California (Respondent)	STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **August 24, 1992**.
- (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."



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- (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: **Two billing cycles following the effective date of the Supreme Court Order.**
(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 **06-PM-13386, Supreme Court Order #S128152.**
 - (b) Date prior discipline effective **December 28, 2006.**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **Motion to Revoke Probation.**
 - (d) Degree of prior discipline **One year actual suspension, compliance with rule 955 of the California Rules of Court**
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline. **State Bar Court Case # 03-O-03685; Supreme Court Order #S128152 effective January 13, 2005; Business and Professions Code section 6068(a) for failing to support the laws of the State of California; one year stayed suspension with two years probation and no actual suspension with conditions.**
- (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.

- (8) **No aggravating circumstances** are involved.

Additional aggravating circumstances

N/A

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. **There were no clients involved regarding Respondent's 955 affidavit.**
- (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. **Respondent fully participated and cooperated with the Office of Probation and the Office of Chief Trial Counsel.**
- (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. **Albeit tardy, Respondent made efforts to come into compliance and ultimately filed a 955 affidavit which was approved by the Office of Probation.**
- (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 "Other Considerations" at page 8, supra.

D. Discipline:

(1) **Stayed Suspension:**

(a) Respondent must be suspended from the practice of law for a period of **two (2) 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:

The above-referenced suspension is stayed.

(2) **Probation:**

Respondent is placed on probation for a period of **three (3) years**, 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.

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- (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: **Respondent has successfully completed State Bar Ethics School within the last two years of settlement negotiations in this matter. Date of completion: June 1, 2006.**
- (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:
- | | |
|---|---|
| <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:

- (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: **Respondent passed the MPRE in November 2006.**
- (2) **Other Conditions:**
- N/A

Attachment language (if any):

IN THE MATTER OF JAMES MICHAEL SIMMONS
CASE NUMBERS: 07-N-11696-DFM

FACTS.

1. Respondent admits that the following facts are true and that he is culpable of wilfully violating former rule 955¹ of the California Rules of Court by failing to comply with a California Supreme Court Order as follows:

2. On September 12, 2006, the Hearing Department of the State Bar Court issued a decision in case number 06-PM-13386, finding Respondent culpable of violating his probation conditions imposed by the California Supreme Court, and ordering Respondent enrolled on involuntarily inactive status pursuant to Business and Professions Code section 6007(d)(1), effective September 15, 2006. The Hearing Department decision further recommended to the Supreme Court of California that Respondent's probation be revoked, that Respondent be actually suspended for one year, and that Respondent be ordered to comply with former rule 955 of the California Rules of Court.

3. On November 28, 2006, the Supreme Court of California filed disciplinary order number S128152, State Bar Court Case No. 06-PM-13386 (955 Order). The 955 Order actually suspended Respondent from the practice of law for one year and required him to comply with former rule 955 of the California Rules of Court and perform the acts specified in subdivisions (a) and (c) of that rule within thirty and forty days, respectively, after the effective date of the order.

4. The 955 Order was properly served on Respondent. The 955 Order became effective on December 28, 2006. Respondent was required to comply with subdivision (a) by January 27, 2007 and comply with subdivision (c) by Tuesday, February 6, 2007.

5. The State Bar Court received Respondent's 955 affidavit on Tuesday, February 13, 2007. Respondent attached a declaration to the February 13, 2007 955 affidavit in order to explain his additional compliance to date.

6. On February 26, 2007, the Office of Probation rejected Respondent's affidavit and provided a detailed letter to Respondent explaining the reasons for rejecting his 955. The Office of Probation provided him with an opportunity to make corrections and advised him that his declaration was vague and ambiguous and raised questions as to compliance. Based upon Respondent's 955 affidavit, the Office of Probation could not clearly determine whether Respondent did or did not have clients as of the date of his affidavit, whether Respondent did or did not notify all of his clients of his suspension, whether Respondent did or did not notify any co-counsel of his suspension, whether Respondent did or did not return any unearned fees to his clients, and whether Respondent had or had not actually stopped practicing law as required by his suspension from the practice of law. The Office of Probation advised him to file a compliant affidavit.

7. On March 8, 2007, Respondent called the Office of Probation with questions about his compliance requirements and to discuss issues pertaining to compliance.

¹ Effective January 1, 2007, rule 955 was renumbered to rule 9.20, but the language of the rule did not change.

8. On March 21, 2007, Respondent communicated with the Office of Probation to clear up any ambiguities in a new declaration. Respondent indicated that he would file a new affidavit.

9. On April 3, 2007, Respondent filed another former rule 955 affidavit and attached a declaration which he thought met with compliance requirements. Respondent's declaration was more detailed but led to further questions and ambiguity, which required further information. On April 3, 2007, the Office of Probation rejected Respondent's affidavit and provided another detailed letter to Respondent explaining why it was rejected and informed him that a referral would now be prepared and may result in discipline.

10. On May 3, 2007, the matter was referred to the Office of Chief Trial Counsel (OCTC) for enforcement purposes.

11. On August 16, 2007, Respondent sent further correspondence and a declaration to OCTC.

12. On August 23, 2007, Respondent met with staff from OCTC to discuss his desire to re-file a 955 affidavit. Respondent met with staff from the Office of Probation to discuss the compliance requirements.

13. An early neutral evaluation conference was held with the State Bar Court on September 13, 2007. At the conference Respondent was encouraged by the State Bar Court judge to file a new 955 affidavit because Respondent had been disheartened after his two attempts.

14. On October 31, 2007, a Notice of Disciplinary Charges (NDC) was filed in this matter and the matter was reassigned to new trial counsel.

15. On November 5, 2007, Respondent filed a new 955 affidavit with the State Bar Court. This time, Respondent did not attach a declaration. The Office of Probation rejected Respondent's affidavit on November 7, 2007 because of an ambiguity.

16. On November 9, 2007, Respondent called the Office of Probation to address the ambiguity. By November 14, 2007, Respondent felt discouraged and did not file another affidavit until July 2008, after being encouraged to do so by OCTC trial counsel.

17. From November 2007 through July 2008, Respondent participated in these proceedings, was in contact with OCTC and cooperated with the assigned trial counsel.

18. On July 29, 2008, Respondent filed a final former rule 955 affidavit dated June 5, 2008. On July 30, 2008, the Office of Probation approved the 955 affidavit.

CONCLUSION OF LAW.

Respondent wilfully violated former rule 955² of the California Rules of Court by failing to fully and adequately comply with a November 28, 2006, California Supreme Court Order which required Respondent to file the affidavit required by the former rule 955, subdivision (c) with the Review Department of the State Bar Court by no later than February 6, 2007.

² Effective January 1, 2007, rule 955 was renumbered to rule 9.20, but the language of the rule did not change.

OTHER CONSIDERATIONS.

Respondent had a reputation in the community for participating in extensive community service from the time he obtained his license to practice law in California to the time he closed his office in the summer of 2006. (Std. 1.2(e); *In the Matter of Twitty* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 664, 673; *In the Matter of Bach* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631, 647-648; *In the Matter of Crane and DePew* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 139, 158 & fn. 22.) Respondent has represented a number of indigent clients on a pro bono basis especially in 2004 and 2005.

Community service and other pro bono activities are mitigating circumstances. (*Rose v. State Bar* (1989) 49 Cal.3d 646, 667; *In the Matter of Respondent E* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 716, 729.)

Respondent has provided character letters from references in the legal and general communities. (Std. 1.2(e)(vi); *In the Matter of Sampson* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 119, 133.)

Respondent's good faith efforts at trying to come into compliance demonstrate recognition of wrongdoing, even though they were technically defective. (Std. 1.2(e)(vii); *In the Matter of Rose* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 192, 204.)

Respondent has stipulated to facts and culpability and has fully cooperated in these proceedings. (Std. 1.2(e)(v); *In the Matter of Respondent E*, at p. 730.) From November 2007 through July 2008, Respondent provided additional information and documentation.

The former rule 955 affidavit is a form with four questions followed by two boxes per question that may be checked. An attorney is required to respond to each question. The instructions on the affidavit state to "Answer each question by checking one box per question. If neither option is correct, attach a declaration under penalty of perjury explaining your situation."

Respondent believed that his situation did not fit the exact description following each question. Respondent explained his situation by attaching a declaration. In so doing, Respondent, submitted information in his declaration that did not satisfy strict compliance requirements with former rule 955.

In 1995, Respondent was diagnosed with idiopathic central nervous system hyper somnolence, which is a sleep disorder that results in accompanying symptoms such as adult attention deficit disorder. Respondent's sleep disorder did not interfere with his ability to practice law while he was an active member. Respondent's adult attention deficit disorder was exacerbated by Respondent's hypertension and added stress surrounding his attempts at filing a compliant 955 affidavit. Respondent over-thought the questions contained in the form and believed that some of the boxes did not completely apply. In an abundance of caution and in an effort to fully disclose in the spirit of the statute, Respondent openly and honestly described his situation in his attached declaration. In his declaration he was not artful at explaining why the boxes were not appropriate to his situation. Therefore, he was not completely compliant, though he attempted to substantially comply. Respondent's medical condition is also causally related to the reason for Respondent's one-week late filing. Respondent included an explanation in his declaration as to his medical condition and the reason for the late filing.

AUTHORITIES SUPPORTING DISCIPLINE.

The purpose of discipline is not punitive; rather it is to inquire into the fitness of an attorney to continue in that capacity for the protection of the public, the courts and the legal profession. (Std. 1.3; *In re Morse* (1995) 11 Cal.4th 184, 205; *Marcus v. State Bar* (1980) 27 Cal.3d 199, 202.) Here, a sanction short of disbarment is adequate to deter future misconduct and protect the public. (*Maltaman v. State Bar* (1987) 43 Cal.3d 924, 958; Cf. *Rimel v. State Bar* (1983) 34 Cal.3d 128, 131-132; see also *Friedman v. State Bar* (1990) 50 Cal.3d 235, 244-245 and *Rodgers v. State Bar* (1989) 48 Cal.3d 300, 316-318.)

Attorneys must adhere to Supreme Court orders with the strictest of compliance. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) Typically, disbarment is the appropriate sanction for a wilful violation of rule 955. (*Bercovich v. State Bar* (1990) 50 Cal.3d 116; *In the Matter of Babero* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 322.) Various extenuating circumstances are also considered. (*In the Matter of Rose* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 192.)

In *In the Matter of Friedman* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 527, an attorney was given a 30-day actual suspension because he filed his 955 affidavit two weeks late because he was confused as to the requirement. (*Friedman, supra*, 2 Cal. State Bar Ct. Rptr. at p. 531.) The attorney admitted that he received a copy of the Supreme Court order and testified that he did not read it closely. He merely put it in a drawer and let it sit there. (*Id.* at p. 530.) The court found that the attorney substantially complied with rule 955, rectified his mistakes, worked to rectify his misconduct, and showed a good faith effort in mitigation. The court also considered his candor and full cooperation with the State Bar. Here, as in *Friedman*, no clients were harmed by the Respondent's failure to file his affidavit timely. (*In the Matter of Fandey* (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 767, 777.) Additionally, here, there is greater mitigation. Respondent's medical condition caused him to file his affidavit one week late and Respondent made repeated attempts to file a compliant and proper 955 affidavit.

Moreover, Respondent's prior history of discipline was less serious than that of the attorney in *Friedman*. (Std. 1.2(b)(i).) In Respondent's first disciplinary proceeding, Respondent filed some documents on behalf of one client while he was administratively inactive for failing to pay bar dues. In Respondent's second disciplinary proceeding, Respondent's probation was revoked for not filing timely quarterly reports by a preponderance of the evidence and Respondent was actually suspended for one year. Here, there is less aggravation than that present in *Friedman* and greater mitigation. Respondent was not running away from his obligation to comply with rule 955. Respondent fully acknowledged his responsibility to comply and made efforts to meet the compliance requirements. Therefore, the appropriate discipline should be less than that in *Friedman*.

The Supreme Court has considered an attorney's attempts to obey the dictates of the rule as mitigating evidence, which influenced the determination whether to impose discipline less than disbarment. In *Durbin v. State Bar* (1979) 23 Cal.3d 461, an attorney notified his client and all other required parties under rule 955(a) within the prescribed time period, but did not file the necessary affidavit with the Supreme Court under rule 955(c) at all. The court determined that the attorney's failure was only in reporting his compliance with rule 955(a) and that the purpose of rule 955(c) is to insure compliance with rule 955(a). Therefore, the court reduced the recommended discipline from one-year actual suspension to six months or until the affidavit was filed, whichever was greater. Here, Respondent had no clients as of June 2006, well

before the order became effective. Respondent also complied with rule 955(a). Respondent went above and beyond the attorney in *Durbin*, and attempted to file a substantially compliant affidavit one week late. Respondent made good faith efforts to file a compliant affidavit and did so prior to any trial. Therefore, the discipline here should be less than that in *Durbin*.

In *Shapiro v. State Bar* (1990) 51 Cal.3d 251, the attorney had also timely notified clients and others of his suspension, but did not file an affidavit conforming to rule 955(c) until five months after it was due. The court considered evidence demonstrating "a diligent, if ultimately unsuccessful, attempt to comply with the rule." (*Id.* at p. 259.) The matter was ultimately resolved satisfactorily even though the matter was referred to State Bar disciplinary proceedings. (*Ibid.*) The Supreme Court imposed a one-year actual suspension for one count of misconduct in addition to the attorney's rule 955 violation. Here, there are more mitigating circumstances and no client harm. Therefore, less discipline is appropriate.

Furthermore, Respondent has a medical condition that was a factor in the timeliness of filing a compliant affidavit. The delay was caused essentially because, in an abundance of caution and in the spirit of full disclosure, Respondent attached declarations to his 955 affidavits because he believed none of the boxes exactly matched his situation.

In light of all relevant circumstances, including the mitigating circumstances based on Respondent's conduct in toto, disbarment would be harsh. Two-Years Stayed Suspension with three years probation and no actual suspension is the appropriate outcome. (*Gary v. State Bar* (1988) 44 Cal.3d 820, 828)

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was August 6, 2008

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of August 6, 2008, the estimated prosecution costs in this matter are approximately \$1,641.00. Respondent acknowledges that this figure is an estimate only and that it does not include State Bar Court costs which will be included in any final cost assessment. 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.

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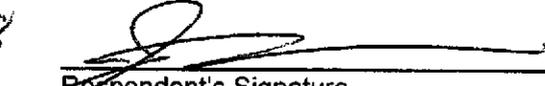
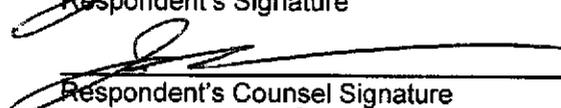
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In the Matter of James Michael Simmons	Case number(s): 07-N-11696-DFM
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SIGNATURE OF THE PARTIES

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.

<u>8/14/2008</u> Date	 Respondent's Signature	 James Michael Simmons Print Name
<u>8/14/2008</u> Date	 Respondent's Counsel Signature	 James M. Simmons Print Name
<u>8/14/2008</u> Date	 Deputy Trial Counsel's Signature	Jean H. Cha Print Name

(Do not write above this line.)

In the Matter Of
James Michael Simmons

Case Number(s):
07-N-11696-DFM

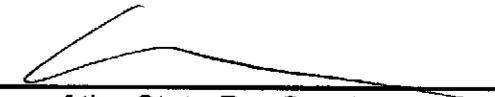
ORDER

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.)**

08-14-08
Date


Judge of the State Bar Court

RICHARD A. PLATEL

CERTIFICATE OF SERVICE

[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on August 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 Los Angeles, California, addressed as follows:

JAMES M. SIMMONS, ESQ.
2205 N 9TH ST
PHOENIX, AZ 85006

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

by overnight mail at , California, addressed as follows:

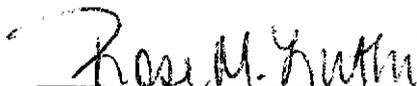
by fax transmission, at fax number . No error was reported by the fax machine that I used.

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

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

JEAN CHA, ESQ., Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 21, 2008.



Rose Luthi
Case Administrator
State Bar Court