FILED DECEMBER 6, 2010

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT – LOS ANGELES

In the Matter of	)	Case Nos.: **06-O-13965-RAH**
	)	**07-O-11738-RAH**
BRADLEY LYNN JENSEN,	)	(Consolidated.)
	)	
Member No. 182272,	)	**DECISION AND ORDER SEALING**
	)	**CERTAIN DOCUMENTS**
A Member of the State Bar.	)	

I. INTRODUCTION

In this consolidated, original disciplinary proceeding, respondent **Bradley Lynn Jensen**[1] was accepted for participation in the State Bar Court's Alternative Discipline Program (ADP). Respondent successfully completed the ADP. Accordingly, the court will now recommend that respondent be placed on one year's stayed suspension and two years' probation on conditions, including a 30-day period of suspension.

II. PERTINENT PROCEDURAL HISTORY

A. Respondent's Acceptance into ADP

The Office of the Chief Trial Counsel of the State Bar of California (OCTC) filed the notice of disciplinary charges (NDC) in case number 07-O-11738-RAH on May 14, 2008. Respondent filed a response to the NDC on June 30, 2008.

[1] Respondent was admitted to the practice of law in this state on June 5, 1996, and has been a member of the State Bar of California since that time. He has one prior record of discipline.

In response to respondent's request to participate in the ADP, the court referred case number 07-O-11738-RAH to the ADP for evaluation. In furtherance of his participation in the ADP, respondent contacted the State Bar's Lawyer Assistance Program (LAP) to assist him with his mental health issues.

On July 29, 2008, respondent submitted, to the court, a Nexus Statement executed under penalty of perjury. And, on August 8, 2008, respondent submitted, to the court, a Medical Report regarding respondent's evaluation in July 2008.

On August 12, 2008, OCTC filed the NDC in case number 06-O-13965-RAH. The court later consolidated case numbers 06-O-13965-RAH and 07-O-11738-RAH for all purposes.

On September 18, 2008, respondent submitted, to the court, an Amended Nexus Statement executed under penalty of perjury. That Amended Nexus Statement together with the foregoing (original) Nexus Statement and Medical Report established the existence of a nexus between respondent's mental health issues and the stipulated misconduct in this consolidated proceeding.

On October 26, 2008, respondent signed a LAP Participation Plan.

On November 3, 2008, OCTC submitted a brief on the issue of discipline. And, on December 15, 2008, respondent also submitted a brief on discipline.

The parties executed and submitted to the court a Stipulation Re Facts and Conclusions of Law under each case number in this consolidated proceeding (i.e., case numbers 06-O-13965-RAH and 07-O-11738-RAH). On February 25, 2009, the court approved and then filed both of the parties' stipulations, which set forth the factual findings, legal conclusions, and mitigating and aggravating circumstances in this proceeding.

Also, on February 25, 2009, the court lodged a Confidential Statement of Alternative Dispositions and Orders (Confidential Statement), in which the court set forth (1) the level of

discipline that it would recommend to the Supreme Court if respondent successfully completed the ADP and (2) the level of discipline that it would recommend if respondent did not successfully complete the ADP. After agreeing to those alternative possible dispositions, respondent signed a Contract and Waiver for Participation in the State Bar Court's Alternative Discipline Program (Contract); the court accepted respondent for participation in the ADP; and respondent's period of participation in the ADP began as of February 25, 2009. Respondent thereafter participated successfully in both ADP and the LAP.

B. Respondent's Completion of ADP

On May 26, 2010, the court received, from the LAP, a Certificate of One Year of Participation in the Lawyer Assistance Program – Mental Health, certifying that, for at least the one-year period preceding May 25, 2010, respondent maintained his mental health stability and successfully participated in the LAP.

At an August 31, 2010 status conference in this consolidated proceeding, the court found that respondent successfully completed the ADP. Then, on September 3, 2010, the court took this matter under submission for decision.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Copies of the parties' stipulations that were filed on February 25, 2009, including the court's orders approving the stipulations, are attached hereto and are incorporated herein by reference, as if fully set forth herein. In those two stipulations, respondent stipulated to a combined total of four counts of professional misconduct involving two client matters.

In one client matter, respondent stipulated that he filed, in a Court of Appeal, a meritless appellant's opening brief for a client. Respondent further stipulated that, by filing that meritless brief, he sought, accepted, and continued employment when he knew that the objective of such

employment was to present a claim or defense in litigation that was not warranted under existing law in willful violation of State Bar Rules of Professional Conduct, rule 3-200(B).

In the other client matter, respondent stipulated to two willful violations of Business and Professions Code section 6106's proscription of acts involving moral turpitude, dishonesty, or corruption. Specifically, respondent stipulated to willfully violating section 6106 by (1) writing and sending letters using another attorney's name and signature without the other attorney's knowledge or consent and (2) impersonating another attorney with the intent to mislead. Finally, respondent stipulated willfully violating State Bar Rules of Professional Conduct, rule 5-100(A) by threatening to pursue criminal "recourse" in order to obtain money or the return of property and to obtain an advantance in a civil dispute.

In both stipulations, respondent stipulated that he has one prior record of discipline, which is an aggravating circumstance. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(b)(i).)[2] In 2007, the Supreme Court placed respondent on ninety days' stayed suspension and one year's probation (but no actual suspension) because he failed to perform legal services competently in willful violation of State Bar Rules of Professional Conduct, rule 3-110(A).

In mitigation, the parties stipulated in both stipulations that respondent's misconduct did not result in any harm (std. 1.2(e)(iii)) and that respondent had serious family problems at the time he engaged in the stipulated misconduct (std. 1.2(b)(iv)). What is more, respondent is entitled to significant mitigation for successfully completing the ADP. (Std. 1.2(e)(iv); see also § 6233.)

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[2] All further references to standards are to this source.

IV. DISCUSSION

The purpose of State Bar disciplinary proceedings is not to punish the attorney, but rather to protect the public, the courts, and the legal profession; to maintain the highest possible professional standards for attorneys; and to preserve confidence in the legal profession. (Std. 1.3; *Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111.)

In determining the appropriate alternative discipline recommendations if respondent successfully completed the ADP and if he did not successfully complete the ADP, the court considered the parties' briefs on discipline as well as certain standards and case law.

In particular, the court considered standards 1.2, 1.3, 1.4, 1.5, 1.6, 1.7(a), 2.3, and 2.10 and the cases of *Garlow v. State Bar* (1988) 44 Cal.3d 689 in which that attorney, who had two prior records of discipline, was disbarred after he forged his clients' signatures to declarations without authorization, misrepresented to a court that one of the signatures was genuine, and attempted (successfully in one case) to persuade the clients to testify falsely to the genuineness of the signatures and *In the Matter of Mitchell* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 332 in which the attorney was placed on one year's stayed suspension and one year's probation on conditions, including a sixty-day suspension, after he misrepresented his educational background on his resume.

Because respondent successfully completed the ADP, this court will recommend that the Supreme Court impose, on respondent, the lower level of discipline as set forth *post* and in the Confidential Statement.

V. DISCIPLINE RECOMMENDATION

THE COURT HEREBY RECOMMENDS that respondent **BRADLEY LYNN JENSEN**, State Bar number 182272, be suspended from the practice of law in California for one

year, that execution of the one-year period of suspension be stayed, and that Jensen be placed on probation for a period of two years subject to the following conditions:

1. Jensen is suspended from the practice of law for the first 30 days of probation.

2. Jensen must comply with the provisions of the State Bar Act and the Rules of Professional Conduct of the State Bar of California.

3. Within 10 days of any change, Jensen must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar (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 30 days after the effective date of discipline, Jensen must contact the Office of Probation and schedule a meeting with his assigned probation deputy to discuss these terms and conditions of probation. At the direction of the Office of Probation, Jensen must meet with the probation deputy either in person or by telephone. Jensen must promptly meet with the probation deputy as directed and requested.

5. Jensen must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10 and October 10. Under penalty of perjury, Jensen must state whether he has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Jensen must also state whether there are any proceedings pending against him 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 20 days before the last day of the period of probation and no later than the last day of the probation period.

6. Subject to the assertion of applicable privileges, Jensen must answer fully, promptly and truthfully, any inquiries of the Office of Probation which are directed to him personally or in writing relating to whether he is complying or has complied with the probation conditions.

7. Within one year after the effective date of the discipline herein, Jensen must provide to the Office of Probation satisfactory proof of his attendance at a session of the State Bar's Ethics School and of his passage of the test given at the end of that session. The school is offered periodically at 180 Howard Street, San Francisco, California 94105-1639 and at 1149 South Hill Street, Los Angeles, California 90015-2299. Arrangements to attend the school must be made in advance by calling (213) 765-1287 and by paying the required fee. This condition of probation is separate and apart from Jensen's California Minimum Continuing Legal Education (MCLE) requirements; accordingly, he is ordered not to

claim any MCLE credit for attending and completing this school. (Accord, Rules Proc. of State Bar of Cal., rule 3201.)

8. Jensen must comply with all provisions and conditions of his Participation Agreement/Plan with the Lawyer Assistance Program (LAP) and must provide the Office of Probation with certification of completion of the LAP. Jensen must immediately report any non-compliance with any provision(s) or condition(s) of his Participation Agreement/Plan to the Office of Probation. Jensen must provide an appropriate waiver authorizing the LAP to provide the Office of Probation and this court with information regarding the terms and conditions of Jensen's participation in the LAP and his compliance or non-compliance with LAP requirements. Revocation of the written waiver for release of LAP information is a violation of this condition. Jensen will be relieved of this condition after he provides the Office of Probation with satisfactory certification of his successful completion of the LAP.

9. The two-year probation will begin on the effective date of the Supreme Court order imposing discipline in this matter. (See Cal. Rules of Court, rule 9.18.) And, at the expiration of the period of probation, if Jensen has complied with all the terms of probation, the order of the Supreme Court suspending him from the practice of law for one year will be satisfied and that suspension will be terminated.

VI. PROFESSIONAL RESPONSIBILITY EXAMINATION

The Court further recommends that **BRADLEY LYNN JENSEN** be ordered to take and pass the Multistate Professional Responsibility Examination within one year after the effective date of the Supreme Court's disciplinary order in this matter and to provide satisfactory proof of his passage to the State Bar's Office of Probation in Los Angeles within the same time period. Failure to pass the examination within the specified time results in actual suspension until passage, without further hearing. (*Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8; but see Cal. Rules of Court, rule 9.10(b); Rules Proc. of State Bar, rule 321(a)(1)&(3).)

VII. COSTS

Finally, the court recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and that those costs be enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

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VIII. DIRECTION RE DECISION AND ORDER SEALING CERTAIN DOCUMENTS

The court directs one of its case administrators to file this Decision and Order Sealing Certain Documents. Thereafter, pursuant to rule 806(c) of the Rules of Procedure of the State Bar of California (Rules of Procedure), all other documents not previously filed in this matter are ordered sealed pursuant to rule 23 of the Rules of Procedure.

The court further orders that protected and sealed material be disclosed to only: (1) the parties to the proceeding and their counsel; (2) personnel of the Supreme Court, the State Bar Court, and independent audiotape transcribers; and (3) personnel of the Office of Probation when necessary for their duties. Protected material must be marked and maintained by all authorized individuals in a manner calculated to prevent improper disclosures. Each person to whom protected material is disclosed must be given a copy of this sealing order by the person making the disclosure.

IT IS SO ORDERED.

Dated: December 6, 2010.

RICHARD A. HONN
Judge of the State Bar Court