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State Bar Court of California
Hearing Department
Los Angeles

PUBLIC MATTER

<p>Counsel For The State Bar</p> <p>AGUSTIN HERNANDEZ Deputy Trial Counsel 1149 South Hill Street Los Angeles, CA 90015-2299 (213) 765-1713</p> <p>Bar # 161625</p>	<p>Case Number (s) 07-O-12885</p>	<p>(for Court's use)</p> <p align="center">FILED</p> <p align="center">FEB 16 2010</p> <p align="center">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> <p align="right"><i>[Signature]</i></p> <p align="center">kwiktag® 078 541 246</p> 
<p>In Pro Per Respondent</p> <p>DONALD RANCE WELCH 175 S. "C" Street, 2nd Fl. Tustin, CA 92780 (714) 665-0799</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>STAYED SUSPENSION; NO ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>Bar # 152814</p> <p>In the Matter Of: DONALD RANCE WELCH</p> <p>Bar # 152814</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 6, 1991**.
- (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 **8** 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:
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
 - costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
 - costs entirely waived

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

- (1) **Prior record of discipline** [see standard 1.2(f)]
- (a) State Bar Court case # of prior case
 - (b) Date prior discipline effective
 - (c) Rules of Professional Conduct/ State Bar Act violations:
 - (d) Degree of prior discipline
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline."
- (2) **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8) **No aggravating circumstances** are involved.

Additional aggravating circumstances

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

- (1) **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious. **See page 7.**
- (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. **See page 7.**
- (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) **Stayed Suspension:**

- (a) Respondent must be suspended from the practice of law for a period of **one year**.
- I. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following:

The above-referenced suspension is stayed.

(2) **Probation:**

Respondent is placed on probation for a period of **one year**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court)

E. Additional Conditions of Probation:

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

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

- (5) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (6) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are

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directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.

- (7) Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the State Bar Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: .
- (8) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (9) The following conditions are attached hereto and incorporated:
- | | |
|---|---|
| <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:
- (2) **Other Conditions:**

Attachment language (if any):

FACTS.

1. In July 2007, Jeremiah Ragsdale (hereinafter "Ragsdale") employed Respondent to represent him in a criminal matter pending in the Parker Justice Court of the State of Arizona, County of La Paz, entitled *State of Arizona v. Jeremiah Ragsdale*, case no. CR 2007-0509 (hereinafter the "Ragsdale case").
2. On July 3, 2007, Respondent filed a notice of appearance in the Ragsdale case indicating that he would be representing Ragsdale in the Ragsdale case. In this pleading, Respondent also requested that a pre-trial hearing be set on a specific date.
3. Respondent's filing of the notice of appearance constituted the practice of law in the State of Arizona.
4. At the time Respondent filed the notice of appearance, Respondent was not entitled to practice law in the State of Arizona. At no time has Respondent been admitted to practice law in the State of Arizona.

CONCLUSIONS OF LAW.

5. By filing the notice of appearance when he was not entitled to practice law in the State of Arizona, Respondent practiced law in a jurisdiction where practicing is in violation of the regulations of the profession in that jurisdiction, in violation of Rules of Professional Conduct, rule 1-300(B).

SUPPORTING AUTHORITY.

Standard 1.3, Title IV, Standards for Attorney Sanctions for Professional Misconduct, provides that the primary purposes of the disciplinary system are: "the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession."

The Supreme Court has emphasized the importance of the standards and held that great weight should be given to the application of the standards in determining the appropriate level of discipline. The Court indicated that unless it has "grave doubts as to the propriety of the recommended discipline," it will uphold the application of the standards. *In re Silvertown* (2005) 36 Cal. 4th 81, 91-92.

Business and Professions Code, sections 6125 and 6126 prohibit respondents from practicing law in California when not entitled to do so. Standard 2.6(d) provides that a respondent's violation of Business and Professions Code, sections 6125 and 6126 shall result in suspension or disbarment depending on the gravity of the offense and the harm to the victim.

An attorney received a three-year stayed suspension and three-year probation on the condition of a 90-day actual suspension for making an appearance while not entitled to practice law. That decision also included a finding of moral turpitude for making the appearance. The respondent had one imposition of prior discipline. (*In re Mason* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 639.)

Another respondent received a six month actual suspension for violating rule 1-300(B), Rules of Professional Conduct, by practicing law in South Carolina where she was not licensed. Respondent represented two clients. That case was more egregious as it involved additional significant misconduct consisting of charging an illegal fee, failure to refund unearned fees, failure to maintain funds in trust, and moral turpitude. The respondent also had a prior imposition of a private reproof. These differences in severity of misconduct, however, are appropriately reflected in the more significant discipline that was imposed in that case. (*In re Wells* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 896.)

Respondent's misconduct is not as serious as the cases discussed above. There are also no aggravating circumstances in this case. Additionally, Respondent is entitled to some mitigation as discussed below.

Pursuant to Standard 1.2(e)(i), it is mitigating circumstance to not have a prior record of discipline over many years of practice when the present misconduct is not deemed serious. Although the misconduct herein is serious, Respondent has had no prior record of discipline since being admitted to the practice of law on June 6, 1991.

It is also a mitigating circumstance to have shown spontaneous candor and cooperation to his client and to the State Bar during the investigation of this matter. (Standard 1.2(e)(v).) In this case, Respondent promptly notified his client that he could not represent him in Arizona and that he should retain an Arizona attorney to take over the case, which Ragsdale did. Respondent fully and timely cooperated with the State Bar during its investigation.

Although the standards and case law support the imposition of actual suspension for practicing law in a jurisdiction where he is not entitled to practice, given Respondent's lack of prior discipline and cooperation with the State Bar, it is appropriate to deviate from the standards and impose the lesser discipline of stayed suspension. In this case, the imposition of stayed suspension provides the adequate protection to the public, courts and legal profession.

PENDING PROCEEDINGS.

The disclosure date referred to on page 2, section A.(7), was on January 6, 2010.

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In the Matter of DONALD RANCE WELCH	Case number(s): 07-O-12885
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SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Fact, Conclusions of Law and Disposition.

Date
1-25-10
Date
1/28/10
Date

N/A
Respondent's Signature
Donald R. Welch
Respondent's Counsel Signature
Agustin Hernandez
Deputy Trial Counsel's Signature

Print Name
Donald R. Welch
Print Name
AGUSTIN HERNANDEZ
Print Name

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In the Matter Of DONALD RANCE WELCH	Case Number(s): 07-O-12885
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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 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.)**

02-16-10
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 February 16, 2010, 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:

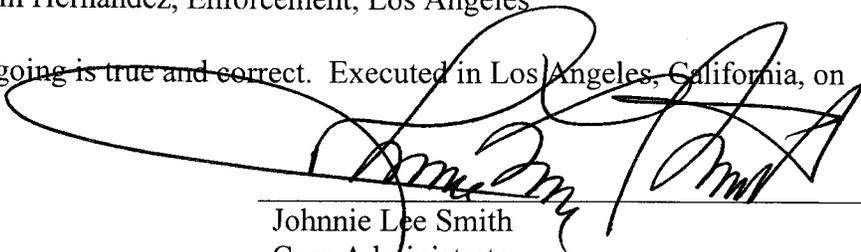
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

DONALD R. WELCH
PRUSSAK WELCH & AVILA APC
175 S "C" ST 2FL
TUSTIN, CA 92780

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

Agustin Hernandez, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on February 16, 2010.



Johnnie Lee Smith
Case Administrator
State Bar Court