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**State Bar Court of California
Hearing Department
San Francisco**

PUBLIC MATTER

Counsel For The State Bar Robin B. Brune 180 Howard Street San Francisco, California 94105 Bar # 149481	Case Number (s) 07-O-13669 & 07-O-14682	(for Court's use) FILED  JAN 06 2009 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
In Pro Per Respondent Steven A. Royston 3443 Ramona Avenue #25 Sacramento, California 95826 Bar # 97862	Submitted to: Settlement Judge	
In the Matter Of: Steven A. Royston Bar # 97862 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 **May 29, 1981**.
- (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 **10** 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.
 - 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. **see attachment.**
- (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. **see attachment.**
- (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.
- (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. **see attachment.**
- (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 attachment.

D. Discipline:

- (1) **Stayed Suspension:**
 - (a) Respondent must be suspended from the practice of law for a period of **one year**.

(Do not write above this line.)

- 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 **two 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.

- (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.

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- (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 checked="" 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):

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW & DISPOSITION

In the matter of: **STEVEN A. ROYSTON**

Case Numbers: **07-O-13669, 07-O-14682 ET AL.**

FACTS & CONCLUSIONS OF LAW.

Case Number 07-O-13669 (Manubhai Tandel)

Facts

In March 2004, client Manubhai Tandel (hereinafter "Tandel") hired respondent to represent him in his personal injury claim from an automobile accident. Tandel paid respondent \$4,500.00 for his services.

In September 2004, respondent filed suit on Tandel's behalf for personal injury, *Manubhai Tandel and Gandabhai Unnatiben vs. Vikas Nehru Aiguo Zhang William Chow*, Case Number CGC-04-434832 filed in San Francisco County Superior Court.

Thereafter, respondent failed to respond to the court and opposing counsel regarding discovery, ultimately resulting in the dismissal of the case in September 2005.

Respondent was sanctioned by the Court \$200.00 on January 18, 2005 for failure to appear at an Order to Show Cause (hereinafter "OSC") hearing; \$250.00 on May 3, 2005 for failure to respond to discovery; \$350.00 on September 12, 2005 for failure to appear at an OSC hearing; \$350.00 on November 14, 2005 for failure to appear at an OSC hearing; and, \$350.00 on March 27, 2006 again for failure to appear at an OSC hearing. Respondent had proper notice of each of the OSC hearings and orders regarding discovery that relate to the sanction orders.

Respondent failed to advise the client of the various court scheduled matters, the court's orders, his failures to appear, the court ordered sanctions, and the dismissal of the case.

Respondent failed to abide by the court orders. To date, he has made no payment on the fines.

On April 17, 2007, Tandel obtained a default judgment against respondent for professional malpractice in *Tandel v. Royston*, Case Number CGC-06-454677 filed in Superior Court, County of San Francisco, for the sum of \$51,295.24.

Conclusions of Law

1. By failing to pursue Tandel's case after filing suit on his behalf; by failing to respond to the discovery from the opposing counsel, resulting in court ordered sanctions, and by failing to appear in court at the various OSC hearings, ultimately resulting in the dismissal of Tandel's suit, respondent failed to perform, in willful violation of Rules of Professional Conduct, rule 3-110(A).

2. By failing to advise Tandel of the various court appearances in his case, the sanctions orders, and the ultimate dismissal of the case, respondent failed to communicate significant developments in the case to the client in a matter in which he agreed to provide legal services, in willful violation of Business & Professions Code § 6068(m).

3. By failing to appear at the court ordered OSC hearings on January 18, 2005, September 12, 2005, November 14, 2005, and March 27, 2006, and by failing to abide by the court's discovery orders,

resulting in the fine of \$250.00 on May 3, 2005; and by failing to pay the Court ordered fines of \$200.00 on January 18, 2005; \$250.00 on May 3, 2005; \$350.00 on September 12, 2005; \$350 on November 14, 2005; and, \$350 on March 27, 2006, respondent failed to abide by court orders, in willful violation of Business & Professions Code § 6103.

Case Number 07-O-14682 (Flora Thomas)

Facts

In December 2005, Thomas hired respondent to sue her former employer, the Sacramento City Unified School District, for wrongful termination. Thomas was a high school principal. Thomas paid respondent five thousand dollars.

In August 2006, respondent filed suit on behalf of Thomas, entitled *Flora Thomas vs. Sacramento City Unified School District*, et al., Case Number 06AS03573, filed in Superior Court, County of Sacramento. In September 2006, the School District filed a demurrer. In October 2006, the School District also filed a Special Motion to Strike under Code of Civil Procedure § 426.16 (SLAPP). Respondent was duly served and received both the demurrer and the Special Motion to Strike and was aware of their contents. Respondent failed to respond to the demurrer and the Motion to Strike. The court ruled against Thomas in November 2006, granting the Special Motion to Strike. An Order consistent with the Court's opinion was filed on November 17, 2006, and the Court entered a Judgment against Thomas on November 28, 2006. Respondent was duly served with, and received the orders of the Court. Respondent failed to advise Thomas of the demurrer, the Motion to Strike, and the Judgment against her.

The School District made a Motion for Attorneys Fees and Costs in December 2006. Respondent received the School District's Motion for Attorneys Fees and Costs, which was duly served, and failed to respond to the Motion for Attorneys Fees and Costs. The Court ultimately awarded an amended Judgment, in January 2007, which included \$9,010.00 in fees and \$564.58 in costs against Thomas. Respondent was properly served with the Amended Judgment and was aware of its contents.

Respondent did not advise his client of his failure to respond to the Motion to Strike, the motion for attorneys fees and costs, his failure to respond to the Motion for Attorneys Fees and Costs, or the Judgment or Amended Judgment against her.

In July 2007, Thomas went to the court directly, reviewed her file, and discovered the Judgment against her. Thomas then asked respondent for her file. Respondent was aware of Thomas's request to return the file and failed to return the file to her. On October 2007, attorney John W. Jefferson wrote to respondent and advised him that Thomas had retained him for a possible malpractice action. Jefferson again requested the file, on Thomas's behalf. Respondent failed to return the file to Jefferson, on behalf of Thomas.

On November 2, 2007, Jefferson brought suit on behalf of Thomas against respondent for malpractice, entitled *Flora Thomas vs. Steven Allen Royston*, Case Number 07AS05007, filed in Superior Court, County of Sacramento. Thomas obtained a default judgment. Thomas is preparing for a hearing on damages.

Conclusions of Law

1. By failing to respond to the Motion to Strike, which resulted in the Judgment against his client, and by failing to respond to the Motion for Costs and Fees, respondent failed to perform, in willful violation of Rules of Professional Conduct, rule 3-110(A).
2. By failing to advise his client of the Motion to Strike, the Judgment against her, the Motion for Attorneys Fees and Costs, and the Amended Judgment, and his failure to respond to the demurrer and

Motion to Strike, and his failure to respond to the Motion for Attorneys Fees and Costs, respondent failed to inform his client of significant developments in a matter in which he agreed to provide legal services, in willful violation of Business & Professions Code § 6068(m).

3. By failing to return Thomas's file to her when she requested that he do so, respondent failed, upon termination of his services, to return the file to the client, in willful violation of Rules of Professional Conduct, rule 3-700(D)(1).

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A (7), was December 10, 2008.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of December 10, 2008, the costs in this matter are \$2,793.05. 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.

Standards

Standard 2.4(b) of the Standards for Attorney Sanctions for Professional Misconduct specifies that failure to perform or communicate shall result in reproof or suspension depending upon the extent of the misconduct and the degree of harm to the client.

Standard 2.6(b) specifies disbarment or suspension for failure to abide by court orders.

CASE LAW

Case law for abandonment of more than one matter demonstrates a range of discipline from stayed suspension through actual suspension. In *Stuart v. State Bar* (1985) 40 Cal. 3d. 838, the attorney failed to answer defense interrogatories in one client matter, resulting in the dismissal of his client's case, and he received thirty days of actual suspension. In *Franklin v. State Bar* (1986) 41 Cal. 3d. 700, the attorney abandoned two matters, resulting in a 45-day actual suspension. These cited cases involve litigated misconduct, where, herein, respondent is given mitigation for his cooperation and acknowledgment of misconduct.

In *Aguiluz*, the attorney was representing the clients in a Department of Social Services action to revoke the license for their residential care home. He obtained one continuance due to the fact that his son was murdered. Thereafter, the hearing was again postponed, the attorney left on some travels, and the court found his further inaction on the case was tantamount to a withdrawal. The Court imposed a stayed suspension. The Court took into account the attorney's emotional mitigation. *In the Matter of Aguiluz* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32.

PRIOR DISCIPLINE.

None.

AGGRAVATING CIRCUMSTANCES.

Standard 1.2(b)(ii) multiple acts of misconduct

Standard 1.2(b)(iv) significant harm

FACTS SUPPORTING AGGRAVATING CIRCUMSTANCES.

Respondent abandoned two separate clients, indicating multiple acts of misconduct.

Each client in this matter lost his or her cause of action due to respondent's malfeasance, indicating significant harm. Thomas suffered a judgment against her in excess of \$9,000.00.

ADDITIONAL AGGRAVATING CIRCUMSTANCES.

In the *Tandel* matter, the client hired counsel and sued respondent for malpractice, and obtained a default judgment in April 2007, the sum in excess of \$51,000.00. Respondent has made no payments on the malpractice judgment. Thomas also obtained a default judgment against respondent.

Respondent did not cooperate in the matter but required Thomas to sue him. Furthermore, Thomas was a high school principal who was arguing constructive termination based upon racial discrimination. She suffered a significant emotional toll after losing her job to what she perceived to be a hostile work environment, and she lost the emotional value of litigating before the school community.

MITIGATING CIRCUMSTANCES.

Standard 1.2(e)(v) candor and cooperation

FACTS SUPPORTING MITIGATING CIRCUMSTANCES.

Respondent has been candid and cooperative in reaching a stipulation in this matter.

ADDITIONAL MITIGATING CIRCUMSTANCES.

In mitigation, respondent suffered a home burglary in 2005, and as a result, he relocated three times within one year. Respondent suffered financially and lost his employment in 2005-2006 as a teacher at the New College of Law, when the school closed. Respondent still teaches part-time at San Francisco Law School. Respondent had his gas turned off in April 2007, due to financial problems, and still suffers from financial hardship.

STATE BAR ETHICS SCHOOL.

Because respondent has agreed to attend State Bar Ethics School as part of this stipulation, respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School.

FINANCIAL CONDITIONS, RESTITUTION.

Within one year from the effective date of discipline in this matter, respondent must make restitution to the San Francisco Superior Court the amount of the sanctions imposed against respondent in the matter of *Manubhai Tandel and Gandabhai Unnatiben, vs. Vikas Nehru Aiguo Zhang William Chow*, Case Number CGC-04-434832, filed in Superior Court, County of San Francisco, or to the Client Security Fund if it has paid, in the principal amount of \$1,500.00 and furnish satisfactory evidence of restitution to the Office of Probation. Respondent shall include in each quarterly report required herein satisfactory evidence of all restitution payments made by him or her during that reporting period.

(Do not write above this line.)

In the Matter of Steven A. Royston	Case number(s): 07-O-13669 & 07-O-14682
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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>December 19, 2008</u> Date	<u>Steven A. Royston</u> Respondent's Signature	<u>Steven A. Royston</u> Print Name
<u>12/23/08</u> Date	<u>Robin B. Brune</u> Deputy Trial Counsel's Signature	<u>Robin B. Brune</u> Print Name

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In the Matter Of Steven A. Royston	Case Number(s): 07-O-13669 & 07-O-14682
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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.)**

Jan. 6, 2009
Date

[Signature]
Judge of the State Bar Court
Loretta 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 January 6, 2009, 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:

**STEVEN ALLEN ROYSTON
LAW OFC STEVEN A ROYSTON
3443 RAMONA AVE #25
SACRAMENTO, CA 95826**

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:

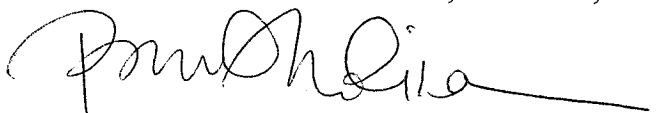
by fax transmission, at fax number . No error was reported by the fax machine that I used.

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:

ROBIN BRUNE, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on January 6, 2009.



Bernadette C.O. Molina
Case Administrator
State Bar Court