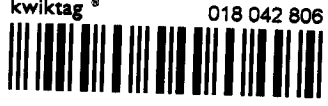


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<p>State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION</p>			<p>PUBLIC MATTER</p>
<p>Counsel For The State Bar</p> <p>Jean Cha Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1000</p> <p>Bar # 228137</p>	<p>Case Number(s): 08-C-14289 10-C-01395</p>	<p>For Court use only</p> <p style="text-align: center; font-size: 1.2em;">FILED</p> <p style="text-align: center;">MAR 29 2011</p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> <p style="text-align: center; font-size: 0.8em;">kwiktag® 018 042 806</p> 	
<p>In Pro Per Respondent</p> <p>A. Benjamin Aames 4540 Paulhan Ave Los Angeles, CA 90041</p> <p>Bar # 117380</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>		
<p>In the Matter of: Andrew Benjamin Aames</p> <p>Bar # 117380</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 February 5, 1985.
- (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."

(Do not write above this line.)

- (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):
 - Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: 2012, 2013 & 2014. (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - Costs are 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.
- (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.

(Do not write above this line.)

- (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. Respondent's misconduct involves two criminal conviction matters.
- (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. Respondent has agreed to discipline without requiring a hearing.
- (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.

** to the extent allowed by restraining orders. se
RBA*

(Do not write above this line.)

- (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:

Respondent's misconduct did not involve any clients and did not occur during the practice of law.

D. Discipline:

- (1) **Stayed Suspension:**
- (a) Respondent must be suspended from the practice of law for a period of TWO 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:
- (b) The above-referenced suspension is stayed.

(2) **Probation:**

Respondent must be placed on probation for a period of THREE YEARS, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

(3) **Actual Suspension:**

- (a) Respondent must be actually suspended from the practice of law in the State of California for a period of FIFTEEN (15) MONTHS.
- 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:

E. Additional Conditions of Probation:

- (1) If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in the general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.

(Do not write above this line.)

- (3) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the 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.

- (6) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish 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.
- (7) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: .
- (9) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) 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 during the period of actual suspension or within one year, whichever period is longer. **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 5.162(A) & (E), Rules of Procedure.

No MPRE recommended. Reason:

- (2) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) **Other Conditions:**

Attachment language (if any):

**ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF: ANDREW BENJAMIN AAMES, 117380
CASE NUMBERS: 08-C-14289 & 10-C-01395

Respondent admits the facts set forth in the stipulation are true and that he is culpable of misconduct warranting discipline.

Case No. 08-C-14289

1. On September 9, 2008, Respondent, at the age of 53, visited a neighbor's garage sale at their invitation and spent some time speaking to his neighbor's daughter, then-aged 15 years old, who appeared to him to be age 18. Before parting ways and returning home, Respondent held the 15-year-old girl by the waist and leaned in to kiss her on the cheek, but she managed to step away before Respondent actually made contact with her face.

2. Respondent was charged and convicted with one count of annoying or molesting a child under the age of 18 in violation of Penal Code section 647.6, subdivision (a)(1). A jury found Respondent guilty on the sole count, and a trial court placed Respondent on probation for three years including 120 days in County jail.

3. A violation of Penal Code section 647.6(a) (Annoy/Molest Child Under the Age of 18 Years), a misdemeanor.

Case No. 10-C-01395

4. On October 17, 2009, at about 10:30 p.m., Respondent and Mrs. Aames,¹ his wife and mother of two daughters, were arguing in their home for approximately fifteen minutes. During their argument, Respondent threatened to have Mrs. Aames legally evicted and forcibly removed from their home once their divorce filed by Respondent eight months earlier was finalized. When Respondent and Mrs. Aames had nothing further to say to one another, Mrs.

¹ The name "Mrs. Aames" is used in lieu of the victim's real name.

Aames retired to their daughter's bedroom and spent the night on their daughter's bedroom floor where their daughter was sleeping.

5. On the following day, Mrs. Aames went to a local hospital complaining that Respondent had assaulted her. Mrs. Aames reported injuries to her neck, shoulder, and wrist. A sexual assault response team exam was conducted. The police were called to the hospital and an incident report was completed.

6. On February 1, 2010, a felony complaint was filed with the Riverside County Superior Court, *People v. Andrew Benjamin Aames*, case no. RIF10-000372. Respondent was charged with violating probation in case no. RIM519498, violating Penal Code section 262(a)(1), a felony, for spousal rape, and violating Penal Code section 273.5(a), a felony, inflicting corporal injury on a spouse.

7. On August 3, 2010, as part of a plea agreement, Respondent pled guilty to a one-count violation of Penal Code section 236, false imprisonment, a felony. That same day, Respondent was sentenced to 36 months' probation with conditions to obey all laws, be committed to custody of the Riverside County Sheriff for 240 days with credit for time served for 53 days plus 48 pursuant to Penal Code section 4019 for a total of 100 days, 20 hours of community service and fees, restitution to the victim, and a 52-week domestic violence group counseling program, among other things.

8. Respondent's misconduct involved acts warranting discipline.

AUTHORITIES.

The purpose of State Bar disciplinary proceedings is not to punish the attorney, but to protect the public, to preserve public confidence in the profession, and to maintain the highest possible professional standards for attorneys. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111; *Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1025; Std. 1.3.)

The determination of discipline begins "by looking to the purpose of sanctions for attorney misconduct." (*In re Morse* (1995) 11 Cal.4th 184, 205.) The chief purposes of State Bar disciplinary proceedings are to protect the public, courts, and legal profession, to maintain the

highest possible professional standards for attorneys, and to preserve public confidence in the legal profession. (Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct, Std. 1.3.) In determining the appropriate level of discipline, the court looks to the standards for guidance, then to case law. (*Drociak v. State Bar* (1991) 52 Cal.3d 1095, 1090; *In the Matter of Koehler* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615, 628.)

Standard 1.6 provides that the appropriate sanction for the misconduct found must be balanced with any mitigating and aggravating circumstances, with due regard for the purposes of imposing discipline.

Standard 3.2 provides for disbarment where the crime involves moral turpitude or at least two years' actual suspension if there is compelling mitigation.

In *In re Safran* (1976) 18 Cal. 3d 134, an attorney in his mid-20's was convicted of two counts of violating *Pen. Code* § 647(a) was disciplined with three years' stayed suspension, three years' probation and no actual suspension under intensive supervision in a plan of psychiatric care. Safran demonstrated remorse, candor and professionalism regarding the practice of law. Here, the misconduct was more serious because of the 38-year age difference between the victim and Respondent. Therefore, actual suspension is warranted.

In *In re Hickey* (1990) 50 Cal. 3d 571, an attorney convicted of a violation of *Pen. Code* § 12025(b) (carrying a concealed weapon), and had failed to give notice of withdrawal from representation of a client matter in violation of Rules of Professional Conduct former rule 2-111, was disciplined with three years' stayed suspension, three years' probation, and 30 days' actual suspension and was the result of alcoholism from which he had recovered and marital difficulties that had been resolved. Respondent's mitigation is more limited than that in *Hickey* and his culpability involves two separate criminal convictions.

In examining the totality of the circumstances (*In re Larkin* (1989) 48 Cal.3d 236) in both criminal matters, fifteen (15) months' actual suspension is sufficient to protect the public.

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was March 3, 2011.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of March 3, 2011, the estimated prosecution costs in this matter are approximately \$5,517.00. Respondent acknowledges that this figure is an estimate only and that it might not include State Bar Court costs that will be included in any final cost assessment (see *Bus. & Prof. Code* section 6068.10(c)) or taxable costs (see *C.C.P.* section 1033.5(a)), 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. It is also noted that if Respondent fails to pay any installment of disciplinary costs within the time provided herein or as may be modified by the State Bar Court pursuant to section 6086.10, subdivision(c), the remaining balance of the costs is due and payable immediately unless relief has been granted under the Rules of Procedure of the State Bar of California (Rules Proc. of State Bar, rule 5.134). The payment of costs is enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

ETHICS SCHOOL.

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

(Do not write above this line.)

In the Matter of: Andrew Benjamin Aames	Case number(s): 08-C-14289 & 10-C-01395
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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 Facts, Conclusions of Law, and Disposition.

<u>March 9, 2011</u> Date	<u>Andrew B. Aames</u> Respondent's Signature	<u>A. Benjamin Aames</u> Print Name
<u>3/9/11</u> Date	<u>IN PRO PER</u> Respondent's Counsel Signature	<u>Jean Cha</u> Print Name
	<u>Jean Cha</u> Deputy Trial Counsel's Signature	<u>Jean Cha</u> Print Name

(Do not write above this line.)

In the Matter of: Andrew Benjamin Aames	Case Number(s): 08-C-14289 & 10-C-01395
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ACTUAL SUSPENSION 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.

Page 6, Section F. (4) - Place an "X" in the box. The commencement date of interim suspension is November 29, 2010.

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 5.58(E) & (F), 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.)**

Date

03-25-11

Judge of the State Bar Court


RICHARD A. PLATEL

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); 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 March 29, 2011, 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:

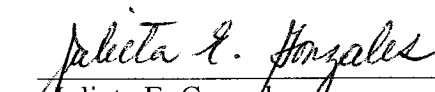
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

A BENJAMIN AAMES ESQ
4540 PAULHAN AVE
LOS ANGELES, CA 90041

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

Jean H. Cha, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on March 29, 2011.



Julieta E. Gonzales
Case Administrator
State Bar Court