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

<p>Counsel For The State Bar</p> <p>Mark Hartman Deputy Trial Counsel 180 Howard St., 7th Floor San Francisco, CA 94105 Telephone: (415) 538-2558</p> <p>Bar # 114925</p>	<p>Case Number (s) 08-H-10473</p> <p>PUBLIC MATTER</p>	<p>(for Court's use)</p> <p>FILED </p> <p>NOV 18 2008</p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>In Pro Per Respondent</p> <p>Brion St. James Box 102 8359 Elk Grove Florin Rd. St. Sacramento, CA 95829 Telephone: (916) 398-2559</p> <p>Bar # 181977</p>	<p>Submitted to: Assigned 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>In the Matter Of:</p> <p>BRION ST. JAMES</p> <p>Bar # 181977</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 on **May 28, 1996**.
- (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 **9** 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".

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- (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 **05-O-04521**
 - (b) Date prior discipline effective **November 28, 2006**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **section 6068, subdivisions (c) and (o)(3) of the Business and Professions Code.**
 - (d) Degree of prior discipline **was a public reproof.**
 - (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.
- (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.
- (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
- 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.

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- (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:
- (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:**

In the Matter of BRION ST. JAMES, No. 181977, A Member of the State Bar.	Case No. 08-H-10473 STIPULATION RE FACTS AND CONCLUSIONS OF LAW
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FACTS

Respondent admits that the following facts are true:

1. Respondent was publicly reprovved by an order ("order") filed on November 7, 2006, in State Bar Court case number 05-H-04521 ("the former case").
2. The order approved respondent's stipulation in the former case regarding facts, conclusions of law, and disposition and imposed a public reprovval.
3. The effective date of the order was November 28, 2006.
4. The conditions attached to the public reprovval in the former case required that respondent (1) file quarterly reports by January 10, April 10, July 10, and October 10, 2007; (2) file a final report by November 28, 2007; and (3) provide proof of having passed the Multistate Professional Responsibility ("MPRE") by November 28, 2007.
5. Respondent did not timely comply with all the preceding conditions.
6. On January 16, 2007, respondent filed the quarterly report due by January 10, 2007.
7. On April 12, 2007, respondent filed the quarterly report due by April 10, 2007.
8. On July 18, 2007, respondent filed the quarterly report due by July 10, 2007.
9. On October 12, 2007, respondent filed the quarterly report due by October 10, 2007.
10. On November 30, 2007, respondent filed the final report due by November 28, 2007.
11. As of the date of this stipulation, respondent has not provided proof of having passed the MPRE.

CONCLUSION OF LAW

In State Bar Court case number 08-H-10473 (“the current case”), respondent admits that he wilfully violated rule 1-110 of the Rules of Professional Conduct (“rule 1-110”) insofar as (1) he failed to file the quarterly reports due by January 10, April 10, July 10, and October 10, 2007; (2) he failed to file the final report due by November 28, 2007; and (3) he failed to provide proof of having completed the MPRE by November 28, 2007.

AGGRAVATING CIRCUMSTANCES

Respondent has a prior record of discipline in the former case. His misconduct in the current case involved multiple acts of misconduct.

MITIGATING CIRCUMSTANCES

Respondent displayed spontaneous candor and cooperation to the State Bar during the current disciplinary proceeding. At the time of his misconduct, he suffered extreme difficulties in his personal life.

SUPPORTING AUTHORITY

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 primary purposes of disciplinary proceedings . . . 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.” (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct (“standards”), std. 1.3.)

The standards provide guidance and deserve “great weight.” (*In re Naney* (1990) 51 Cal.3d 186, 190; *Van Sloten v. State Bar* (1989) 48 Cal.3d 921, 933, fn. 5.) “[A]dherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar misconduct.” (*In re Naney, supra*, 51 Cal.3d at p. 190; see also *In re Brown* (1995) 12 Cal.4th 205, 220.) The California Supreme Court accepts a disciplinary recommendation resulting from application of the standards unless it has “grave doubts” about the recommendation’s propriety. (*In re Morse, supra*, 11 Cal.4th at p. 206; *In re Lamb* (1989) 49 Cal.3d 239, 245.)

Standard 1.7(a) provides that if an attorney has one prior record of discipline and is found culpable in a subsequent disciplinary matter, the degree of discipline in the subsequent proceeding shall be greater than the degree of discipline in the prior proceeding unless the prior discipline imposed was so remote in time and the offense for which it was imposed was so minimal in severity that imposing the greater discipline the subsequent proceeding would be

manifestly unjust. Pursuant to standard 1.7(a), the discipline in the current case must be greater than a public reproof.

Standard 2.9 provides that an attorney's wilful violation of rule 1-110 of the Rules of Professional Conduct shall result in suspension. Pursuant to standard 2.9, respondent's violation of rule 1-110 warrants suspension.

Similar cases can indicate appropriate discipline. (*In re Morse, supra*, 11 Cal.4th at pp. 207-208; *Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311.) The review department has published opinions in two cases involving the violation of rule 1-110 of the Rules of Professional Conduct: *In the Matter of Meyer* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 697 [stayed suspension for two years and probation for three years, conditioned on actual suspension for ninety days] and *In the Matter of Stansbury* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 103 [stayed suspension for two years and actual suspension for ninety days and until other conditions were met]. The attorneys in these two cases committed misconduct significantly worse than respondent's misconduct. Pursuant to these two published opinions, the discipline in the current case should be less than stayed suspension for two years and probation for three years, conditioned on actual suspension for ninety days.

In the current case, standards 1.3, 1.7(a), and 2.9 support a disciplinary recommendation of stayed suspension for one year and probation for two years. So do *In the Matter of Meyer* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 697 and *In the Matter of Stansbury* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 103.

DATE OF DISCLOSURE OF ANY PENDING INVESTIGATION OR PROCEEDING

On October 1, 2008, deputy trial counsel Mark Hartman ("DTC Hartman") faxed a disclosure letter to respondent. In this letter, DTC Hartman advised respondent of any pending investigation or proceeding not resolved by this stipulation.

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In the Matter of BRION ST. JAMES, No. 181977, A Member of the State Bar of California.	Case number(s): 08-H-10473
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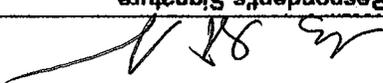
SIGNATURE OF THE PARTIES

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 and Conclusions of Law.

Respondent enters into this stipulation as a condition of his/her participation in the Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Program Contract.

If the Respondent is not accepted into the Program or does not sign the Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

If the Respondent is accepted into the Program, upon Respondent's successful completion of or termination from the Program, this Stipulation will be filed and the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Statement Re: Discipline shall be imposed or recommended to the Supreme Court.

Date	<u>10/13/08</u>	Respondent's Signature	
Date	<u>10/20/08</u>	Respondent's Counsel Signature	<u>Mark Hartman</u>
Date		Deputy Trial Counsel's Signature	

Print Name
Mark Hartman

Print Name

Print Name
Brion St. James

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In the Matter Of BRION ST. JAMES	Case Number(s): 08-H-10473-PEM
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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.

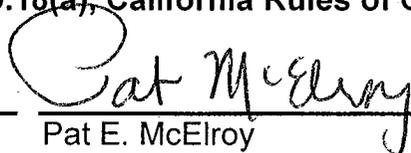
On page 4 section D (1) (a) the following language is added:

1 year stayed suspension, 2 years probation.

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.)**

November 18, 2008

Date



Pat E. McElroy
Judge of the State Bar Court

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, November 18, 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 San Francisco, California, addressed as follows:

**BRION L. ST. JAMES
BOX 102
8359 ELK GROVE FLORIN RD STE 1
SACRAMENTO, CA 95829**

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

MARK HARTMAN, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on November 18, 2008.


Laretta Cramer
Case Administrator
State Bar Court