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State Bar Court of California Hearing Department San Francisco DISBARMENT		
Counsel For The State Bar Sherrie B. McLetchie Deputy Trial Counsel 180 Howard Street San Francisco CA 94105 (415) 538-2297 Bar # 85447	Case Number(s): 10-C-934-LMA	For Court use only PUBLIC MATTER FILED <i>AS</i> APR 15 2011 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
Counsel For Respondent Vicki Hui-Wen Young 240 Stockton Street, #400 San Francisco CA 94108 (415) 421-4347 Bar # 73261	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT DISBARMENT <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: David Henry Southworth Bar # 91601 A Member of the State Bar of California (Respondent)		

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 4/18/80.
- (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 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."

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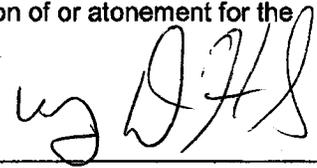


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- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (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 to be awarded to the State Bar.
 - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - Costs are entirely waived.
- (9) ORDER OF INACTIVE ENROLLMENT:
The parties are aware that if this stipulation is approved, the judge will issue an order of inactive enrollment under Business and Professions Code section 6007, subdivision (c)(4), and Rules of Procedure of the State Bar, rule 5.111(D)(1).

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
- (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. Respondent killed Stuart Pradia.
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.



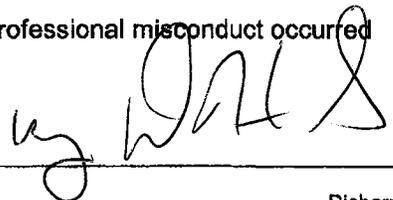
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- (6) **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) **Multiple/Pattern of Misconduct:** Respondent's current 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. By entering into this stipulation, respondent displayed cooperation with the State Bar.
- (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.

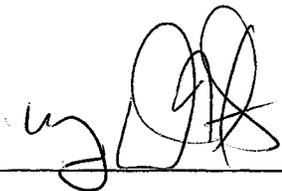


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(13) **No mitigating circumstances** are involved.

Additional mitigating circumstances:

Respondent has no record of prior discipline over the 30 years since his admission. However, his misconduct (murder) is serious. Also, he was incarcerated between 1982 and 1988, and was thereafter on parole for 14 years.



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D. Discipline: Disbarment.

E. Additional Requirements:

- (1) **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.

- (2) **Restitution:** Respondent must make restitution to _____ in the amount of \$ _____ plus 10 percent interest per year from _____. If the Client Security Fund has reimbursed _____ for all or any portion of the principal amount, respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5. Respondent must pay the above restitution and furnish satisfactory proof of payment to the State Bar's Office of Probation in Los Angeles no later than _____ days from the effective date of the Supreme Court order in this case.

- (3) **Other:**



ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: DAVID HENRY SOUTHWORTH

CASE NUMBER: 10-C-934-LMA

FACTS AND CONCLUSIONS OF LAW

Respondent admits that the following facts are true and that he is culpable of the violations set forth below:

Facts

On January 26, 1982, David Henry Southworth ("respondent") was convicted in a jury trial of murder for shooting Stuart Pradia on June 5, 1981, in violation of former Texas Penal Code section 19.02(a)(2) in *Texas v. Southworth*, Harris County 248th District Court case no. 335819. Respondent was sentenced to 20 years confinement.

On January 26, 1982, respondent filed a notice of appeal to the Texas Court of Appeals, [*Southworth v. Texas*, 14th Judicial District case no. B14-82-065-CR]. A Court of Appeal opinion affirming the judgment of the trial court was filed July 14, 1983. On January 24, 1984, a mandate of affirmance was issued and respondent's conviction became final.

The State Bar of California became aware of respondent's murder conviction in 2010.

Conclusion of Law

By killing Stuart Pradia, and having been found guilty of his murder, a felony inherently involving moral turpitude, respondent failed to support the laws of the United States in wilful violation of Business and Professions Code sections 6068(a). The record of conviction is conclusive evidence of guilt of the crime of which he was convicted (Bus. & Prof. Code §6101).

PENDING PROCEEDINGS

The disclosure date referred to, on page 2, paragraph A(7), was April 1, 2011.

COSTS OF DISCIPLINARY PROCEEDINGS

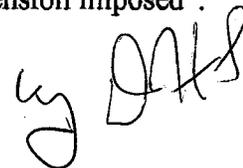
Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of April 1, 2011, the prosecution costs in this matter are approximately \$2,235. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

AUTHORITIES SUPPORTING DISCIPLINE

Standards for Attorney Sanctions for Professional Misconduct

Standard 3.2 calls for disbarment for where an attorney is convicted of a crime of moral turpitude unless "the most compelling mitigating circumstances clearly predominate" in which case "the discipline shall not be less than a two-year actual suspension prospective to any interim suspension imposed".

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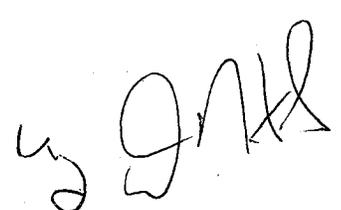


Case Law

Disbarment is the usual discipline for homicide: In re Kirschke (1976) 16 Cal.3d 902, [attorney who shot his wife and her lover to death was convicted after a jury trial of first degree murder disbarred; no prior record of discipline]; In re Nevill (1985) 39 Cal.3d 729 [attorney who abused drugs and was having marital difficulties, shot and killed his wife after first trying to frighten her with the gun convicted of voluntary manslaughter; disbarred]; In re Strick (1983) 34 Cal.3d 891 [drug-addicted attorney shot a friend of his roommate during an argument, failed to provide medical aid while the victim died of his gunshot wound, hid the weapon, and lied to police in order to avoid responsibility for the crime convicted of voluntary manslaughter, a crime which may or may not involve moral turpitude; Supreme Court found moral turpitude in the circumstances involved and disbarred; no prior disciplinary history].

WAIVER OF REFERRAL TO STATE BAR COURT PROGRAM FOR RESPONDENTS WITH SUBSTANCE ABUSE AND/OR MENTAL HEALTH CONDITIONS

In signing this stipulation, respondent hereby acknowledges that the State Bar Court's separate program for respondents with substance abuse or mental health conditions has been fully explained to him, that he has had an opportunity to request to be considered for that program, and that he has specifically waived any such consideration.

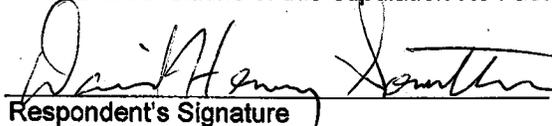
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In the Matter of: David Henry Southworth	Case number(s): 10-C-934
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SIGNATURE OF THE PARTIES

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>4/7/11</u> Date	<u></u> Respondent's Signature	<u>David Henry Southworth</u> Print Name
<u>4/8/11</u> Date	<u></u> Respondent's Counsel Signature	<u>Vicki Hui-Wen Young</u> Print Name
<u>4/8/11</u> Date	<u></u> Deputy Trial Counsel's Signature	<u>Sherrie B. McLetchie</u> Print Name

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In the Matter of:
David Henry Southworth

Case Number(s):
10-C-934

DISBARMENT 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 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.)**

Respondent **David Henry Southworth** is ordered transferred to involuntary inactive status pursuant to Business and Professions Code section 6007, subdivision (c)(4). Respondent's inactive enrollment will be effective three (3) calendar days after this order is served by mail and will terminate upon the effective date of the Supreme Court's order imposing discipline herein, or as provided for by rule 5.111(D)(2) of the Rules of Procedure of the State Bar of California, or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

Date

Apr. 15 2011

Judge of the State Bar Court

LUCY ARMENDARIZ

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 San Francisco, on April 15, 2011, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND
ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

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:

EPHRAIM MARGOLIN
VICKI HUI-WEN YOUNG
240 STOCKTON ST #400
SAN FRANCISCO, CA 94108 - 5306

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

SHERRIE MCLETCHIE, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on April 15, 2011.



Laine Silber
Case Administrator
State Bar Court