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State Bar Court of California Hearing Department San Francisco STAYED SUSPENSION		
Counsel For The State Bar Erica L. M. Dennings Office of the Chief Trial Counsel 180 Howard Street San Francisco, CA 94105 538-2285 Bar # 145755	Case Number(s): 11-O-15002	For Court use only PUBLIC MATTER FILED <i>R</i> DEC 29 2011 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
In Pro Per Respondent Bram B. Dresden 54 Elizabeth Circle Greenbriar, CA 94904 Bar # 63877	Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: Bram B. Dresden Bar # 63877 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 June 30, 1975.
- (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."

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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 are added to membership fee for calendar year following effective date of discipline.
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: (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 89-O-12591-AGK
 - (b) Date prior discipline effective December 7, 1993
 - (c) Rules of Professional Conduct/ State Bar Act violations: rules 3-110(A) and 3-700(D)(2) of the Rules of Professional Conduct
 - (d) Degree of prior discipline private 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. Respondent's failure to explain the ramifications of bankruptcy to his client was stressful for her.
- (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.

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- (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. Respondent cooperated throughout the disciplinary 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. Respondent referred Wilson to a more experienced and competent bankruptcy attorney and paid the fees Wilson paid him to that attorney.
- (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

D. Discipline:

(1) **Stayed Suspension:**

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

The above-referenced suspension is stayed.

(2) **Probation:**

Respondent is placed on probation for a period of one (1) year, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court.)

E. Additional Conditions of Probation:

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

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

- (5) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.

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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:
- Substance Abuse Conditions Law Office Management Conditions
- Medical Conditions 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 5.162(A) & (E), Rules of Procedure.**
- No MPRE recommended. Reason:
- (2) **Other Conditions:**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Bram Dresden

CASE NUMBER(S): 11-O-15002

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

Case No. 11-O-15002 (State Bar Investigation)

FACTS:

1. Prior to February 26, 2011, Lydia Wilson ("Wilson") employed respondent to file bankruptcy petition on her behalf. Respondent was very inexperienced in the area of bankruptcy law. Respondent was aware that Wilson owned and operated a jewelry store. On or about February 26, 2011, respondent filed a voluntary petition for relief under chapter 7 of the Bankruptcy Code on behalf of Wilson dba Marlow and Co. Jewellers. Respondent told Wilson that her business assets would not be a part of her bankruptcy. Respondent was mistaken about this.

2. Respondent did not obtain Wilson's signature on the schedules. Respondent prepared and filed a schedule and a statement of affairs which omitted Wilson's store inventory and answered "none" as to jewelry and business fixtures and supplies, even though he knew Wilson had a jewelry store. The petition contained other errors such as in incorrect value of rental property. Respondent maintains that he filed the bankruptcy petition by mistake when he pushed the electronic filing key on his computer. On March 18, 2011, the chapter 7 trustee made an unannounced visit to Wilson's jewelry store. Respondent had not informed Wilson that her store was involved in the bankruptcy.

3. Respondent sent Wilson's case to another more experienced bankruptcy attorney, John Vos, who then filed a motion to dismiss the case and the ground that she never signed the bankruptcy petition. Respondent filed the petition and schedules without ever obtaining Wilson's signature in violation of Bankruptcy Local Rule 5005-2(c) which provides that the electronic filing of a document "purportedly signed by someone other than the Registered Participant, including, but not limited to the petition, statement of financial affairs, and schedules of assets and liabilities, shall be deemed a certification by the Registered Participant that he or she has the document in question, bearing the person's original signature, in his or her physical possession."

4. In a Memorandum re: Sanctions for Rules Violations dated June 13, 2011, the court found that respondent violated Rule 9011 of the Federal Rules of Bankruptcy Procedure by filing unsigned petition, schedules, and statement of affairs. The court found that respondent failed to act competently in the case.

5. In an order dated June 12, 2011, the court imposed the following sanctions: a) Respondent may not commence any new bankruptcy cases, nor substitute into any cases, for the next 90 days or until he has fulfilled the other terms to be ordered, whichever is longer; b) Respondent shall pay a fine of \$7500 to the Clerk of the Court for violation of rule 9011. All but \$2500 of the fine will be stayed so long as it is paid within 90 days and respondent never again files any document which falsely indicates that a client or other person has signed it and so long as he always produces the signed copy of any

document upon request of the court; c) Respondent shall complete at least eight hours of continuing education in elementary bankruptcy law, procedure and ethics; d) Respondent shall re-take and pass the court's Electronic Case Filing training course; e) The matter will be referred to the Standing Committee on Professional Conduct for such other and further discipline as it deems appropriate.

6. The Standing Committee on Professional Conduct did not take any action against respondent. Respondent complied with the conditions of the order and on September 14, 2011, the court issued an order stating respondent had completed all of the requirements of the Court's order and approved respondent's application for reinstatement to the U. S. Bankruptcy Court.

CONCLUSIONS OF LAW:

7. By filing unsigned petition, schedules, and statement of affairs, and failing to list the inventory of Wilson's store in violation of rule 9011 of the Federal Rules of Procedure, and wrongly advising Wilson that he business would not be involved in the bankruptcy, respondent recklessly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

PENDING PROCEEDINGS.

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

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 2.4 (reproval or suspension for wilful failure to perform services in an individual matter); Standard 1.7 (Effect of prior discipline) degree of discipline imposed in current proceeding greater than that in the prior proceeding.

Doyle v. State Bar (1975) 15 Cal. 3d 973. Three years stayed suspension for failure to perform in two separate matters along with misrepresentations to the client and failure to return unearned fees, several factors in mitigation including no prior record of discipline)

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of December 5, 2011, the prosecution costs in this matter are \$2797. 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.

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In the Matter of: Bram B. Dresden (SBN 63877)	Case number(s): 11-O-15002
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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.

12/12/2011 Bram Dresden Bram Dresden
Date Respondent's Signature Print Name

19 December 2011 Erica R. M. Dennings Erica Dennings
Date Deputy Trial Counsel's Signature Print Name

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In the Matter of: Bram B. Dresden (SBN 63877)	Case Number(s): 11-O-15002
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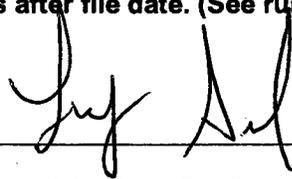
STAYED SUSPENSION ORDER

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.

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.)**

Dec. 29, 2011
Date



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 December 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 San Francisco, California, addressed as follows:

BRAM B. DRESDEN
54 ELIZABETH CIR
GREENBRIAR, CA 94904

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

ERICA L. M. DENNINGS, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on December 29, 2011.



Bernadette C.O. Molina
Case Administrator
State Bar Court