



ORIGINAL

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State Bar Court of California Hearing Department Los Angeles STAYED SUSPENSION		
Counsel For The State Bar Drew Massey Deputy Trial Counsel 845 South Figueroa Street Los Angeles, CA 90017-2525 Tel: (213) 765-1204 Bar # 244350	Case Number(s): 13-O-16204	For Court use only FILED NOV 20 2014 STATE BAR COURT CLERK'S OFFICE LOS ANGELES
In Pro Per Respondent Randolph Brandelli 555 Pier Avenue, Ste 4 Hermosa Beach, CA 90254 Tel: (310) 318-9090 Bar # 224633	Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL SUSPENSION <input checked="" type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: RANDOLPH JOSEPH BRANDELLI Bar # 224633 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 **April 19, 2003**.
- (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 **13** 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 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: **three billing cycles following the effective date of the Supreme Court order in this matter.** (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 [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(f) & 1.5]. 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 or a separate attachment entitled "Prior Discipline."
- (2) ☐ **Dishonesty:** Respondent's misconduct was intentional, 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, p. 9.**
- (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, p. 9.**

- (8) ☐ **Restitution:** Respondent failed to make restitution.
- (9) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances

C. Mitigating Circumstances [see standards 1.2(g) & 1.6]. 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, the public, or the administration of justice.
- (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 with a good faith belief that was honestly held and reasonable. **See attachment, pp. 9-10.**
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical or mental 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 the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.
- (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 extraordinarily 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 subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances** are involved.

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Additional mitigating circumstances

Good character and preiling stipulation. See attachment, pp. 9-10.

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 1.2(c)(1), 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 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:
- | | |
|---|---|
| <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 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: RANDOLPH JOSEPH BRANDELLI

CASE NUMBER: 13-O-16204

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. 13-O-16204 (Michael Mann Matter)

FACTS:

1. Respondent was hired by Michael Mann on February 3, 2007 to protect Mr. Mann's interests in his mother's trust. Mr. Mann believed that his mother, Jessie Kate Jacobs, had created and amended her trust ("Trust") under the undue influence of Mark Mann (Mr. Mann's son and Ms. Jacobs' grandson).

2. On February 26, 2007, on behalf of Mr. Mann, respondent filed a "Petition to Determine Validity of Purported Trust and to Impose Constructive Trust" ("Petition") in the Los Angeles County Superior Court, case number NP012251 (the "probate matter").

3. On March 9, 2007, the Court in the probate matter issued a notice of hearing scheduled for April 12, 2007. Respondent received notice of the hearing.

4. Prior to the April 12, 2007 hearing, the Court prepared and posted probate notes indicating that there were defects or "Matters to Clear"¹ with the filed Petition. Specifically, the notes stated as follows:

"no copy of tr, 1st or 2nd amendment attached to petn.
No allegation re tr jurisdiction.
Petr not verified.
MATTER NOT FURTHER REVIEWED."

The probate notes also indicated that if no attempt was made to clear the defects, then the matter would be taken "off calendar" after two automatic continuances.

5. Respondent did not file an amended petition or otherwise address the defects in the Petition prior to the April 12, 2007 hearing.

¹ In each case, "Matters to Clear" was written in all capital letters in the probate notes but is written here in typical letters to enhance readability of this attachment.

6. Respondent appeared at the April 12, 2007 hearing. However, because there were “matters to clear” with the Petition, at the April 12, 2007 hearing, the Court continued the matter to May 24, 2007. Respondent received notice of the May 24, 2007 hearing.

7. Respondent did not file an amended petition or otherwise address the defects in the Petition prior to the May 24, 2007 hearing.

8. Respondent appeared at the May 24, 2007 hearing. However, the probate notes indicated that there were still “Matters to Clear” in the Petition. Specifically, the May probate notes included the same notation as had been included in the April probate notes as set forth in paragraph 4 above. And, the May probate notes also indicated that if no attempt was made to clear the defects, then the matter would be taken “off calendar” after two automatic continuances. Because there were still “matters to clear” with the Petition, at the May 24, 2007 hearing, the Court continued the matter to June 28, 2007. Respondent received notice of the June 28, 2007 hearing.

9. Respondent did not file an amended petition or otherwise address the defects in the Petition prior to the June 28, 2007 hearing.

10. On June 18, 2007, the Court in the probate matter issued a notice of the hearing scheduled for June 28, 2007, which respondent received. At the time, the probate notes still indicated that there were “Matters to Clear” and identified the same deficiencies as it previously had.

11. Respondent called the court clerk one or two days prior to the scheduled hearing and was told that the matter would be “off calendar.” Accordingly, respondent did not appear at the June 28, 2007 hearing.

12. The Court reconvened the matter on June 28, 2007. Respondent’s opposing counsel was in attendance. At the hearing, respondent’s opposing counsel requested the matter be dismissed. The Court dismissed the probate matter without prejudice for failure to clear the defects in the Petition as indicated in the probate notes.

13. On July 6, 2007, respondent filed an “Amended Petition” in the probate matter on behalf of Mr. Mann. The opposing party demurred to the Amended Petition as being outside the statute of limitations. On November 8, 2007, the Court granted the demurrer and dismissed the Amended Petition as being untimely.

14. On October 4, 2007, respondent also filed a “Motion to Set Aside Order of Dismissal” in the probate matter on behalf of Mr. Mann. The Court denied that Motion on November 8, 2007.

15. Subsequently, on November 17, 2008, Mr. Mann brought an action for professional malpractice against respondent. After trial, the jury returned a verdict against respondent and found that Mr. Mann’s son used undue influence to amend the Trust and cut Mr. Mann out of his inheritance. The jury further found that respondent’s malpractice and failure to perform competently was a substantial cause of Mr. Mann’s injury. On March 12, 2010, judgment was entered in favor of Mr. Mann and against respondent in the amount of \$240,723.50. Respondent moved for a new trial, and the Court granted the motion as to damages only. Respondent timely appealed. The Court of Appeals affirmed on June 17, 2011. A new trial on the issue of damages only was held on March 12, 2012. After trial, the

award was reduced to \$155,178.16 and judgment entered in favor of Mr. Mann and against respondent in that amount on March 21, 2012. Respondent has not paid any portion of the judgment.

16. Respondent did not report the March 2010 or March 2012 judgments to the State Bar.

CONCLUSIONS OF LAW:

17. By failing to clear the defects in the Petition at any time prior to the April 12, 2007, May 25, 2007, and June 28, 2007 hearings, respondent intentionally, recklessly or repeatedly failed to perform legal services with competence, in willful violation of rule 3-110(A) of the Rules of Professional Conduct.

18. By failing to report the March 2010 and March 2012 malpractice judgments to the State Bar in writing within 30 days of the time he had knowledge of them, respondent willfully violated Business and Professions Code section 6068(o)(2).

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Wrongdoing (Std. 1.5(b)). Respondent failed to correct deficiencies in his pleading despite two separate notices from the Court and approximately four months to do so (from February to June 2007). Moreover, respondent did not report the judgment against him in March of 2010 nor the revised judgment in March of 2012. This constitutes multiple acts of wrongdoing. (*In the Matter of Elkins* (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160, 168.)

Significant Harm to the Client (Std. 1.5(f)). Respondent's actions significantly harmed a client. In the malpractice matter, a jury returned a verdict that: (1) Mr. Mann's son used undue influence to amend the Trust and cut Mr. Mann out of his inheritance; and (2) that respondent's malpractice was a substantial cause of Mr. Mann's injury. Mr. Mann eventually obtained a judgment in the amount of \$155,178.16. This is the monetary amount by which Mr. Mann has been harmed. Mr. Mann was also forced to hire new counsel and pursue a malpractice action. (See *In the Matter of Casey* (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 117.)

MITIGATING CIRCUMSTANCES.

Prefiling Stipulation. Respondent admitted to the misconduct and entered into this stipulation fully resolving this matter prior to the filing of disciplinary charges. Respondent's cooperation at this early stage will save the State Bar significant resources and time. Respondent's cooperation in this regard is a mitigating factor in this resolution (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigation credit was given for entering into a stipulation as to facts and culpability].)

Good Faith Belief that is Honestly Held and Reasonable (Std. 1.6(b)). Respondent failed to appear at the June 2007 hearing because he spoke with a court clerk a day or two before and was told that the matter would be off calendar and an appearance would not be necessary. It is generally reasonable to rely on court information received from a court clerk. Thus, respondent is entitled to mitigation for action taken in good faith in failing to appear at the June 2007 hearing, which lead to the dismissal of Mr. Mann's petition. (*Edwards v. State Bar* (1990) 52 Cal.3d 28.) This would not mitigate

respondent's misconduct in failing to clear the defects in the petition as identified in the probate notes before the April, May, or June hearings.

Good Character. Respondent has provided evidence of good character from three sources including his legal mentor, a client, and an opposing counsel. Further, respondent's own declaration indicates that he has provided *pro bono* and low cost legal services. He has also acted as a mentor to underprivileged youth as well as been active in other community service endeavors. Although three character witnesses alone would not be sufficient to warrant mitigation for good character, mitigation is warranted here due to the combination of the evidence of good character from three witnesses and respondent's *pro bono* work and community service. (*Calvert v. State Bar* (1991) 54 Cal.3d 765, 785 [community service is mitigating factor entitled to considerable weight].)

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct "set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.1. All further references to Standards are to this source.) The Standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

Although not binding, the Standards are entitled to "great weight" and should be followed "whenever possible" in determining level of discipline. (*In re Silvertown* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence 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 attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) If a recommendation is at the high end or low end of a Standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) "Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure." (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

In determining whether to impose a sanction greater or less than that specified in a given Standard, in addition to the factors set forth in the specific Standard, consideration is to be given to the primary purposes of discipline; the balancing of all aggravating and mitigating circumstances; the type of misconduct at issue; whether the client, public, legal system or profession was harmed; and the member's willingness and ability to conform to ethical responsibilities in the future. (Stds. 1.7(b) and (c).)

Standard 2.5(c) states that reproof is appropriate for failing to perform legal services in a single client matter.

Standard 2.8(b) states that reproof is appropriate for failing to comply with the duty required by Business and Professions Code section 6068(o).

Reproof is the appropriate discipline under the Standards for both violations. However, Standard 1.7(b) states that aggravating factors must be considered alone and in balance with mitigating standards to determine whether the net effect requires a greater level of discipline. A greater sanction is appropriate

where, “there is serious harm to the client, the public, the legal system, or the profession and where the record demonstrates that the member is unwilling or unable to conform to ethical responsibilities.” (Standard 1.7(b).) Here, substantial harm to the client occurred both in the loss of his cause of action and in terms of pecuniary loss. The substantial harm to the client is highly aggravating in this case. The damage to the client was quantified at over \$150,000. Respondent has indicated that his ability to pay the judgment is minimal. Therefore, this amount will represent an actual loss to the client.

Here, mitigation includes good character, some good faith, and the fact that respondent has acknowledged his misconduct and entered into this prefiling stipulation. Further, while not spontaneous (as required by Standard 1.6(e) and (g)), respondent has expressed remorse. While not specifically mitigating under the Standards, respondent also demonstrated no intent to conceal his failure from his client and thereafter attempted to file an Amended Petition as well as have the dismissal set aside.

Given the aggravated nature of the misconduct due to the significant harm to the client, even considering that it occurred in a single client matter, and given that a primary purpose of discipline is to protect the public, it is appropriate to impose greater discipline than that suggested by Standards 2.5(c) and 2.8(b). Discipline including a one-year suspension, stayed, along with one year of probation with conditions would be sufficient to preserve the public confidence, maintain high standards, and protect the public, the courts, and the profession.

A review of case law lends support to this level of discipline. In *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, the attorney represented a convicted client in an appeal of a death penalty matter. He asked for and received eight extensions of time to file his opening brief over an approximately two-year period. When the Court of Appeals informed him that no more continuances would be granted, he requested one anyway. That request was denied. The Court issued an Order to Show Cause and the attorney’s failure to file the brief resulted in a sanction against him of \$1,000 which he did not pay. He was found culpable of failing to perform legal services competently in one client matter, failing to comply with a court order, and failing to report the sanction. In aggravation, there were multiple acts and there was significant harm to the administration of justice in that the appeal was delayed for over two years due to the requested extensions. In mitigation, the attorney had practiced for 16 years before the misconduct, no further misconduct had been committed, and there was good character (though it was discounted due to coming primarily from attorneys). The Review Department recommended a six-month stayed suspension.

Like the *Riordan* attorney, respondent failed to perform competently in a single client matter and also failed to report a reportable action. However, respondent’s misconduct is somewhat less serious than the misconduct in *Riordan*, which also features a failure to comply with court orders which is not present in respondent’s matter. More importantly, respondent’s misconduct took place over a four-month period, whereas the *Riordan* attorney’s misconduct took place over eight years and included at least two years of active delay. Respondent’s misconduct was less pervasive and it was followed by respondent’s attempts to remedy the damage. Both cases feature similar mitigating circumstances. However, the *Riordan* attorney had practiced law far longer and received additional mitigating credit for lack of a prior record of discipline over many years of practice. Unfortunately, respondent’s attempts to remedy the damage were unsuccessful, and his misconduct caused significant harm to his client, making the aggravation in respondent’s case significantly more weighty. Therefore, despite the less egregious misconduct in respondent’s matter, a period of stayed suspension similar to that imposed in *Riordan* is also warranted here.

Similarly, in *Van Sloten v. State Bar* (1989) 48 Cal.3d 921, the attorney failed to perform in a dissolution of marriage matter. The attorney's client, the former wife, was seeking to divorce her husband. When the former husband refused to sign dissolution paperwork, the attorney took no further action on the case. He did not move for a default or otherwise work toward the default. He also did not return numerous phone calls resulting in a failure to perform and failure to communicate. In aggravation, he did not appear before the review department for oral argument which demonstrated a lack of appreciation of the seriousness of the charges. No factors were identified in mitigation. The *Van Sloten* Court stated, "the underlying misconduct—a single act of failing to perform the requested services without serious consequences to the client—does not merit a two-year period of [stayed] suspension." The Court imposed discipline consisting of a six-month stayed suspension with a one-year probation.

Like the attorney in *Van Sloten*, respondent failed to perform in a single client matter. Respondent's failure to perform took place over a four-month period while the attorney in *Van Sloten* failed to perform over a one-year period. *Van Sloten* also featured a failure to communicate which is not present in respondent's matter, but respondent failed to report a reportable action. Overall, the misconduct in the two cases is similar. The aggravation in respondent's case is more significant in that the *Van Sloten* attorney's misconduct resulted only in a delay while respondent's misconduct resulted in direct, pecuniary harm to the client. However, the *Van Sloten* attorney's failure to participate demonstrated a lack of appreciation for the seriousness of his misconduct that is not present in respondent's matter. On balance, in light of the similarities in the cases, a period of stayed suspension similar to that imposed in *Van Sloten* is appropriate.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of October 27, 2014, the prosecution costs in this matter are estimated at \$3,077.00. 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: RANDOLPH JOSEPH BRANDELLI	Case number(s): 13-O-16204
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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>11/3/14</u> Date	<u><i>Randolph J. Brandelli</i></u> Respondent's Signature	<u>Randolph Brandelli</u> Print Name
<u>11-4-14</u> Date	<u><i>[Signature]</i></u> Respondent's Counsel Signature	<u>Drew Massey</u> Print Name
	<u><i>[Signature]</i></u> Deputy Trial Counsel's Signature	<u></u> Print Name

(Do not write above this line.)

In the Matter of: RANDOLPH JOSEPH BRANDELLI	Case Number(s): 13-O-16204
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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.)**

NOVEMBER 20, 2014
Date



GEORGE E. SCOTT, JUDGE PRO TEM
Judge of the State Bar Court

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 November 20, 2014, 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:

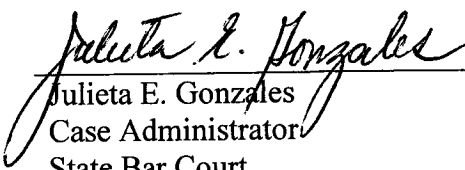
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

RANDOLPH J. BRANDELLI
LAW OFFICE OF RANDOLPH J BRANDELLI
555 PIER AVE STE 4
HERMOSA BEACH, CA 90254

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

Drew D. Massey, Enforcement, Los Angeles
Terrie Goldade, Office of Probation, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on November 20, 2014.


Julieta E. Gonzales
Case Administrator
State Bar Court