

ORIGINAL

(Do not write above this line.)

State Bar Court of California Hearing Department Los Angeles REPROVAL		
<p>Counsel For The State Bar</p> <p>Jamie Kim Deputy Trial Counsel 845 S. Figueroa St. Los Angeles, CA 90015 (213) 765-1182</p> <p>Bar # 281574</p>	<p>Case Number(s): 14-O-03035 - LMA</p>	<p>For Court use only</p> <p style="text-align: center;">PUBLIC MATTER</p> <p style="text-align: center;">FILED</p> <p style="text-align: center;">✓ MAR 20 2015</p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>In Pro Per Respondent</p> <p>John Richard Reynen, II 41593 Winchester Road Suite 200 Temecula, CA 92590 (951) 693-9393</p> <p>Bar # 163052</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p>	
<p>In the Matter of: JOHN RICHARD REYNEN, II</p> <p>Bar # 163052</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>PUBLIC REPROVAL</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</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 December 15, 1992.
- (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 10 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."

(Effective January 1, 2014)

Reproval



(Do not write above this line.)

- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- Costs are added to membership fee for calendar year following effective date of discipline (public reproof).
 - Case ineligible for costs (private reproof).
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: **two billing cycles following the effective date of the Reproof Order.** (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.
- (9) The parties understand that:
- (a) A private reproof imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
 - (b) A private reproof imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
 - (c) A public reproof imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

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

(Do not write above this line.)

- (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.
- (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 Stipulation, page 7.**
- (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.

(Do not write above this line.)

- (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.

Additional mitigating circumstances:

No Prior Discipline and Pre-Trial Stipulation, see Stipulation, pages 7-8.

D. Discipline:

- (1) **Private reproof (check applicable conditions, if any, below)**
- (a) Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).
- (b) Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).

or

- (2) **Public reproof (Check applicable conditions, if any, below)**

E. Conditions Attached to Reproof:

- (1) Respondent must comply with the conditions attached to the reproof for a period of **one year**.
- (2) During the condition period attached to the reproof, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.

(Do not write above this line.)

- (5) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the condition period attached to the reprobation. 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 the reprobation during the preceding calendar quarter. Respondent must also state in each report 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 (thirty) days, that report must be submitted on the next following 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 condition period and no later than the last day of the condition period.

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

- (11) 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:

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: JOHN RICHARD REYNEN, II

CASE NUMBER: 14-O-03035

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. 14-O-03035 (Complainant: Jennifer Streicher)

FACTS:

1. On August 8, 2013, respondent was hired by Jennifer Streicher ("the client") to represent her in a marital dissolution case. The client paid respondent \$2,500 as advanced fees.

2. On September 5, 2013, respondent filed a Petition for Dissolution of Marriage and Summons in Riverside County Superior Court on behalf of the client. On September 25, 2013, respondent filed a Proof of Service of Summons.

3. On December 10, 2013, respondent spoke with the client by telephone and advised her that he had received a response from opposing counsel as well as a Proposed Stipulated Judgment. That same day, respondent sent the client the Proposed Stipulated Judgment with a letter advising her to review it along with the various proposed modifications and advise him as to whether she agreed with the proposed modifications. Respondent thereafter took no further action on behalf of the client.

4. On January 14, 2014, the client wrote to respondent regarding modifications to the Proposed Stipulated Judgment. Respondent received the client's letter but did not respond.

5. The client called respondent and left him voice messages requesting status updates on the following dates: January 29, 2014, February 5, 2014, February 11, 2014, February 19, 2014, February 25, 2014 and March 17, 2014. Respondent received the client's messages but did not respond to any of the telephone calls.

6. In March 2014, the client hired new counsel.

7. On March 31, 2014, the client's new counsel faxed respondent a Substitution of Attorney form, which respondent signed and returned that day.

8. On May 7, 2014, a complaint analyst from the Office of the Chief Trial Counsel of the State Bar of California ("complaint analyst"), sent a letter to respondent at his membership records address, advising him that the client had filed a State Bar complaint ("complaint") against him and requesting him to submit a written response to the allegations of misconduct being investigated in inquiry number 14-16576 by May 19, 2014. Respondent received the letter but did not respond to the allegations.

9. On May 21, 2014, respondent sent the client a refund of \$1,050 with an accounting.

10. On May 22, 2014, the complaint analyst sent respondent an e-mail reminding him that his written response to the allegations of misconduct being investigated in inquiry number 14-16576 had been due on May 19, 2014 and requesting respondent to relay the status of the written response. Respondent received the e-mail but failed to respond.

11. On June 10, 2014, an investigator from the Office of the Chief Trial Counsel of the State Bar of California ("investigator") sent respondent letters to his membership records address and his alternate address, as well as an e-mail directing him to submit a written response to the allegations of misconduct being investigated in case number 14-O-03035 with supporting documentation by June 24, 2014. Respondent received the letters and e-mail but did not respond.

12. On July 1, 2014, the investigator sent respondent letters to his membership records address and his alternate address, as well as an e-mail directing him to submit a written response to the allegations of misconduct being investigated in case number 14-O-03035 by July 16, 2014. Respondent received the letters and e-mail but did not respond.

CONCLUSIONS OF LAW:

13. By failing to perform any legal services on behalf of the client after sending her a letter on December 10, 2013, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

14. By failing to respond to at least six status inquiries from the client in January through March of 2014, respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which he had agreed to provide legal services, in willful violation of Business and Professions Code section 6068(m).

15. By failing to provide a response to the State Bar's letters of June 10, 2014 and July 1, 2014 that requested respondent's response to the allegations of misconduct being investigated in case no. 14-O-03035, respondent failed to cooperate and participate in a disciplinary investigation, in willful violation of Business and Professions Code section 6068(i).

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent engaged in multiple acts of misconduct by failing to respond to client communications on several occasions, failing to perform legal services competently and failing to cooperate in a disciplinary investigation by failing to provide a response despite two written requests from the State Bar.

MITIGATING CIRCUMSTANCES.

No Prior Discipline (Std. 1.6(a)): Although respondent's misconduct is serious, he was admitted to the State Bar on December 15, 1992 and has been a member for 22 years without a record of discipline. At the time of the misconduct, respondent had been practicing law for 21 years without prior discipline and is, therefore, entitled to significant mitigation. (*In the Matter of Riordan* (Review Dept.

2007) 5 Cal. State Bar Ct. Rptr 41 [attorney's practice of law for more than 17 years considered to be mitigating even when misconduct at issue is serious].)

Pretrial Stipulation: Respondent admitted to the misconduct and entered into this stipulation fully resolving this matter without the necessity of a trial. Respondent's cooperation will save State Bar resources. Respondent's cooperation is a mitigating factor in this resolution. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability].)

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 Silverton* (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 mitigation 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 1.7(a) provides that, "If a member commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed." Standard 2.5(c) states that reproof is an appropriate form of discipline for an attorney's failure to perform legal services or properly communicate in a single client matter. In this case, respondent failed to perform work on the client's case after December 10, 2013 and failed to respond to her communications thereafter. Standard 2.8(b) applies to respondent's failure to cooperate in the State Bar disciplinary investigation and also provides for a reproof.

Respondent's significant period of practice without a record of discipline as well as the fact that he has entered into a pre-trial stipulation constitute mitigating circumstances. However, respondent's multiple acts of misconduct, which include a violation of his duty to cooperate in the State Bar investigation, constitute an aggravating factor that offsets the mitigation. Accordingly, pursuant to Standards 2.5(c) and 2.8(b), a public reproof with conditions is appropriate to protect the public, courts and legal

profession; to maintain high professional standards by attorneys; and to preserve public confidence in the legal profession.

Case law supports this outcome. In *Bach v. State Bar* (1991) 52 Cal.3d 1201, the California Supreme Court ordered that the attorney be actually suspended for 30 days in a first-time discipline case for failing to perform legal services, failing to respond to client communications, withdrawing improperly, failing to refund unearned fees and failing to cooperate in a State Bar investigation. The attorney had represented the client in an uncontested marital dissolution for nearly three years before attempting to withdraw after failing to communicate with the client for months at a time and failing to obtain a judgment. The attorney then did not participate in fee arbitration and did not respond to the State Bar's numerous requests for a response to the allegations of misconduct. Note that before the Standards were revised effective July 1, 2014, the Standards called for suspension to disbarment for violations of section 6068(i) rather than reproof as reflected in the current Standards.

Like the attorney in *Bach*, this is respondent's first disciplinary matter. He too failed to perform legal services, did not communicate and did not cooperate during the State Bar investigation. Unlike *Bach*, respondent did issue a refund to the client and respondent's misconduct did not span for a period of several years. In light of the less extensive misconduct in the present case and in light of the current Standards, a lower level of discipline than that imposed in *Bach* should be imposed in this matter, and a public reproof with conditions is appropriate.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of February 24, 2015, the prosecution costs in this matter are \$3,497. 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.

EXCLUSION FROM MCLE CREDIT

Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of: JOHN RICHARD REYNEN, II	Case number(s): 14-O-03035
--	-------------------------------

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.

2-28-15  John Richard Reynen, II
Date Respondent's Signature Print Name

Date Respondent's Counsel Signature Print Name
3/9/15  Jamie J. Kim
Date Deputy Trial Counsel's Signature Print Name

(Do not write above this line.)

In the Matter of: JOHN RICHARD REYNEN, II	Case Number(s): 14-O-03035
--	-------------------------------

REPROVAL ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproof, 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 REPROVAL IMPOSED.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- All court dates in the Hearing Department 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.) **Otherwise the stipulation shall be effective 15 days after service of this order.**

Failure to comply with any conditions attached to this reproof may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.

Date 3-19-15


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 San Francisco, on March 20, 2015, 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:

JOHN R. REYNEN II
LAW OFFICES OF JOHN R. REYNEN II, APC
41593 WINCHESTER RD STE 200
TEMECULA, CA 92590

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

JAMIE J. KIM, Enforcement, Los Angeles
TERRIE GOLDADE, Probation, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on March 20, 2015.



Mazie Yip
Case Administrator
State Bar Court