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State Bar Court of California  
Hearing Department  
Los Angeles  
STAYED SUSPENSION

ORIGINAL

<p>Counsel For The State Bar</p> <p><b>William Todd</b> Deputy Trial Counsel 845 South Figueroa Street Los Angeles, California 90017 213-765-1491</p> <p>Bar # 259194</p>	<p>Case Number(s): 14-O-03133-PEM</p>	<p>For Court use only</p> <p><b>FILED</b> <i>lp</i></p> <p><b>MAR 02 2015</b></p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>Counsel For Respondent</p> <p><b>Ellen A. Pansky</b> Pansky Markle Ham LLP 1010 Sycamore Avenue, Unit 308 South Pasadena, California 91030 213-626-7300</p> <p>Bar # 77688</p>	<p>Submitted to: <b>Settlement Judge</b></p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p><b>STAYED SUSPENSION; NO ACTUAL SUSPENSION</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: <b>BRANDON BURNETT GRANVILLE</b></p> <p>Bar # 268302</p> <p>A Member of the State Bar of California (Respondent)</p>		

**Note:** All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted **December 1, 2009**.
- (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 **11** 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)

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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: **the two billing cycles immediately following 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. **Please see "Attachment to Stipulation", at 8.**
- (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)  **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.
- (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.

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

**Additional mitigating circumstances**

**Please see "Pre-filing Stipulation" in "Attachment to Stipulation", at 8.**

#### 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 **two years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court.)

#### E. Additional Conditions of Probation:

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

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

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

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- (6)  Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (7)  Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the State Bar Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: .
- (8)  Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (9)  The following conditions are attached hereto and incorporated:
- |   |   |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions         | <input type="checkbox"/> Financial Conditions             |

**F. Other Conditions Negotiated by the Parties:**

- (1)  **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 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:                      BRANDON BURNETT GRANVILLE

CASE NUMBER:                            14-O-03133

**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-03133 (Complainant: Saba Tesfamicael)

**FACTS:**

1. On December 6, 2010, Saba Tesfamicael was injured in an automobile accident. In September 2012, Tesfamicael hired Respondent to represent her in a personal injury action arising from injuries she suffered in the December 6, 2010 accident. On December 6, 2012, Respondent filed a lawsuit on Tesfamicael's behalf in the Los Angeles Superior Court ("the civil matter"). Respondent was the sole attorney of record in the civil matter.
2. On June 4, 2013, Respondent appeared at a status conference in the civil matter. On that date the court set a final status conference date of May 23, 2014 and a jury trial date of June 5, 2014. Respondent communicated neither the final status conference date nor the jury trial date to Tesfamicael.
3. On May 23, 2014, Respondent failed to appear at the final status conference in the civil matter. On June 5, 2014, Respondent failed to appear at the jury trial in this matter, and the court dismissed the civil matter with prejudice.
4. After appearing on June 4, 2013, Respondent made no further appearances in the civil matter, and he did not communicate with Tesfamicael despite her attempts to communicate with him. Respondent failed to communicate his withdrawal to the court or defense counsel, and he never filed a substitution in the civil matter. Respondent also failed to respond to defense counsel's discovery requests.
5. Respondent also failed to update his State Bar member record within 30 days of a summer 2013 address change.
6. In November of 2014, after Respondent filed his answer to the Notice of Disciplinary Charges in this matter, Respondent returned Tesfamicael's case file to her new counsel. Respondent also executed a declaration dated November 23, 2014 in which Respondent assumed fault for the dismissal of the civil matter. On November 25, 2014, Tesfamicael's new counsel filed a motion to set aside the dismissal in the civil matter. The court has not yet ruled on Tesfamicael's motion.

## CONCLUSIONS OF LAW:

7. By withdrawing from the civil matter without permission of the court, Respondent improperly withdrew from Tesfamicael's matter in willful violation of Rules of Professional Conduct, rule 3-700(A)(1).

8. By withdrawing from the civil matter without giving due notice to Tesfamicael or allowing time for the employment of other counsel, Respondent improperly withdrew from Tesfamicael's matter in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

9. By failing to communicate the final status conference and trial dates with Tesfamicael following the June 4, 2013 status conference, Respondent willfully violated Business and Professions Code, section 6068(m).

10. By failing to update his State Bar member record mailing address within 30 days of his Summer 2013 address change, Respondent willfully violated Business and Professions Code, section 6068(j).

## AGGRAVATING CIRCUMSTANCES.

**Significant harm. (Std 1.5(f)).** As a result of Respondent's repeated failures to prosecute Tesfamicael's case, Tesfamicael's matter was dismissed by the court with prejudice.

## MITIGATING CIRCUMSTANCES.

**Pre-filing stipulation.** Respondent has accepted responsibility for his actions by entering into this stipulation, thereby sparing State Bar Court time and resources. (*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 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).)

In this matter, Respondent admits to committing four acts of professional misconduct. Standard 1.7(a) requires that where a Respondent "commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed."

Standard 2.15 is the most severe sanction applicable to Respondent's misconduct. Standard 2.15 provides that suspension not to exceed three years or reproof is appropriate for a violation of a provision of the Business and Professions Code or the Rules of Professional Conduct not otherwise specified in these Standards, such as violations of rules 3-700(A)(1) and 3-700(A)(2).

Here, Respondent filed a lawsuit on Tesfamicael's behalf and appeared at the initial status conference where he received the final status conference and jury trial dates, dates he then failed to communicate to Tesfamicael. Instead, Respondent withdrew from representation in Tesfamicael's litigated matter, without the approval of the court and without giving any notice to Tesfamicael, and the court ultimately dismissed the matter with prejudice after Respondent failed to appear for jury trial.

Aggravating factors here include the presence of significant harm, while mitigating factors include Respondent's willingness to enter into a pre-trial stipulation and the recent steps he has taken to assist Tesfamicael in re-opening her case. Respondent's recognition of his wrongdoing and the steps he has taken to correct it suggest that though a stayed suspension is necessary to further the purposes of attorney discipline, actual suspension is not. Therefore, the appropriate level of discipline will include a one-year suspension, stayed, with two years' probation on standard conditions and a Multistate Professional Responsibility Examination requirement. This level of discipline is consistent with the facts of this case and is sufficient to serve the purposes of attorney discipline.

Prior cases are consistent with the recommended level of discipline. In *Layton v. State Bar* (1990) 50 Cal.3d 889, the Supreme Court ordered 30 days' actual suspension for an attorney who was removed as the executor of an estate after repeatedly failing in his administration of the estate, including repeated failures to distribute estate funds. Mitigating factors included the absence of prior misconduct in 30 years of practice, the absence of gain from his misconduct and both emotional and physical strain, while the aggravating factors included the harm caused by denying beneficiaries access to the estate, such as tax penalties and interest payments the beneficiaries did not receive.

Like *Layton*, the instant matter features an attorney who committed misconduct in a single client matter. The misconduct in *Layton* was more severe, persisted over a longer period, and was more aggravated. Also unlike the current matter, the attorney in *Layton* did not stipulate to his misconduct. Under these facts, Respondent's misconduct does not require actual suspension, though the appropriate level of discipline will include a one-year stayed suspension with two years' probation.

**DISMISSALS.**

The parties respectfully request the Court to dismiss the following alleged violations in the interest of justice:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
14-O-03133	Four	Business and Professions Code section 6068(i)

**COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of February 9, 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.**

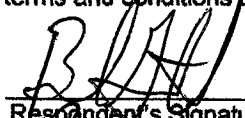
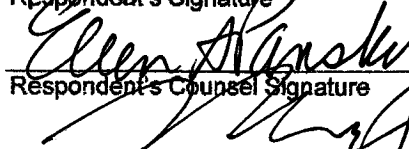
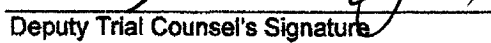
Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)

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In the Matter of: BRANDON BURNETT GRANVILLE	Case number(s): 14-O-03133-PEM
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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>2/11/2015</u> Date	 Respondent's Signature	<u>Brandon Burnett Granville</u> Print Name
<u>2/12/15</u> Date	 Respondent's Counsel Signature	<u>Ellen A. Pansky</u> Print Name
<u>2/13/15</u> Date	 Deputy Trial Counsel's Signature	<u>William Todd</u> Print Name

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In the Matter of:  
BRANDON BURNETT GRANVILLE

Case Number(s):  
14-O-03133-PEM

### 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.)**

Date

2-26-15

  
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 2, 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:

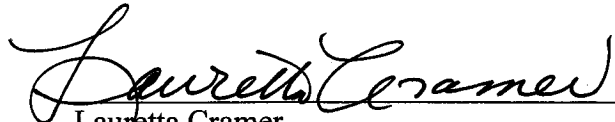
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

ELLEN ANNE PANSKY  
PANSKY MARKLE HAM LLP  
1010 SYCAMORE AVE UNIT 308  
SOUTH PASADENA, CA 91030

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

William S. Todd, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on March 2, 2015.

  
\_\_\_\_\_  
Laurretta Cramer  
Case Administrator  
State Bar Court