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**State Bar Court of California
Hearing Department
Los Angeles**

<p>Counsel For The State Bar</p> <p>Jean H. Cha 1149 S. Hill St. Los Angeles, CA 90015 (213) 765-1629</p>	<p>Case Number (s) 06-O-11728 06-O-13919</p>	<p>(for Court's use)</p> <p align="center">FILED FEB 18 2010 <i>hrc</i> STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> <p align="center">PUBLIC MATTER</p>
<p>Bar # 228137</p> <p>In Pro Per Respondent</p> <p>Keith H. Bray 940 S. Coast Dr., Ste. 215 Costa Mesa, CA 92626 (714) 241-0404</p>		
<p>Bar # 219586</p> <p>In the Matter Of: Keith H. Bray</p> <p>Bar # 219586</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</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 **June 1, 2002**.
- (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."
- (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):
- ☐ until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
 - ☒ costs to be paid in equal amounts prior to February 1 for the following membership years: **2011 and 2012** (hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
 - ☐ costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
 - ☐ costs 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
 - (b) ☐ Date prior discipline effective
 - (c) ☐ Rules of Professional Conduct/ State Bar Act violations:
 - (d) ☐ Degree of prior discipline
 - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) ☐ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) ☒ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. **The court issued orders regarding child support and attorney fees against his client, Ben Riddle, when Respondent failed to appear at trial.**
- (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. **Respondent's misconduct occurred in two client matters and involved violations of Rules of Professional Conduct, rules 3-110(A) and 3-700(A)(2), and Business and Professions Code sections 6068(d) and 6068(m).**

- (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.
- (4) ☐ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted in good faith.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances** are involved.

Additional mitigating circumstances

Respondent has no prior record of discipline. Respondent expressed remorse for his misconduct and acknowledged his misconduct to the State Bar.

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:

(b) ☒ The above-referenced suspension is stayed.

(2) ☒ **Probation:**

Respondent must be 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)

(3) ☒ **Actual Suspension:**

(a) ☒ Respondent must be actually suspended from the practice of law in the State of California for a period of **30 days**.

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:

E. Additional Conditions of Probation:

(1) ☐ If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.

(2) ☒ During the probation period, 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.
- (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 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.

- (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 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.
- (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 probation conditions.
- (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) ☐ 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 during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 954-9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**

☐ No MPRE recommended. Reason:

- (2) ☐ **Rule 955-9.20, California Rules of Court:** Respondent must comply with the requirements of rule 955-9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) ☐ **Conditional Rule 955-9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 955-9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) ☐ **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) ☐ **Other Conditions:**

G. SUPPORTING AUTHORITY:

Standard 2.4(b) provides that culpability of a member of wilfully failing to perform services in an individual matter or of wilfully failing to communicate with a client shall result in reproof or suspension depending upon the extent of the misconduct and the degree of harm to the client.

Standard 2.6 provides that culpability of a member of a violation of section 6068 shall result in disbarment or suspension depending upon the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3.

Attachment language begins here (if any):

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

Case No. 06-O-11728

Facts:

1. On April 26, 2004, Ben Riddle ("Riddle") employed the Duchanin Law Firm (the "firm") to represent him in a marital dissolution.
2. On May 25, 2004, Daniel Duchanin ("Duchanin") filed a petition for dissolution for Riddle in the Orange County Superior Court entitled, *In re the Marriage of Ben Riddle and Melissa Riddle*, case number 04D004643.
3. In April 2005, Duchanin assigned Respondent, who worked for Duchanin as an independent contractor, to handle Riddle's case.
4. On April 1, 2005, Respondent filed a request that the court set Riddle's case for trial.
5. On May 24, 2005, the court set the trial in Riddle's case for August 17, 2005.
6. On July 13, 2005, Riddle filed his Chapter 7 bankruptcy petition.
7. On August 16, 2005, Respondent filed a notice of stay of proceeding in Riddle's case because of Riddle's bankruptcy.
8. On August 17, 2005, Respondent did not appear in court for the trial. The court did not previously vacate the August 17, 2005 trial date. The court stayed Riddle's case as to property issues, but did not stay Riddle's case as to child custody, visitation and attorney fee issues.
9. On August 17, 2005, the court continued the trial to October 12, 2005 and directed opposing counsel, Robert Waddell ("Waddell") to contact Respondent.
10. On August 17, 2005, Waddell's office served written notice on Respondent at his address of record regarding the continuance of the Riddle trial to October 12, 2005. Respondent received the notice. Respondent did not inform Riddle of the continuance of the trial to October 12, 2005.
11. Between July and September 2005, Riddle left numerous messages for Respondent in which he requested the status of his case. Respondent did not respond to Riddle's messages.
12. On September 20, 2005, Riddle signed a substitution of attorney at Duchanin's request. Respondent executed the substitution of attorney on September 21, 2005. Respondent did not release the file to Riddle before October 12, 2005 and did not inform Riddle about the October 12, 2005 trial date before Riddle executed the substitution of attorney.
13. On October 4, 2005, the firm filed the substitution of attorney with the court.
14. As Respondent did not notify Riddle of the October 12, 2005 trial, Riddle did not appear for trial. The court issued orders against Riddle regarding child support and attorney fees.

Conclusions of Law:

1. By not appearing for trial on August 17, 2005, Respondent recklessly failed to perform legal services with competence in wilful violation of Rules of Professional Conduct, rule 3-110(A).

2. By not informing Riddle of the continuance of the trial to October 12, 2005, Respondent failed to keep a client reasonably informed of a significant development in a matter in which Respondent had agreed to provide legal services in wilful violation of Business and Professions Code section 6068(m).
3. By not responding to Riddle's messages, Respondent failed to respond promptly to reasonable status inquiries of a client in wilful violation of Business and Professions Code section 6068(m).
4. By withdrawing from the representation without releasing the file to Riddle before October 12, 2005 and without notifying Riddle of the October 12, 2005 trial, Respondent failed upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to his client, including giving due notice to the client, allowing time for employment of other counsel, and complying with rule 3-700(D) in wilful violation of Rules of Professional Conduct, rule 3-700(A)(2).

| Case No. 06-O-13919

Facts:

1. On August 21, 2005, S. Scott Kostka ("Kostka") employed Respondent to represent him in his pending marital dissolution, *In re the Marriage of Therese Anne Kostka and Steven S. Kostka*, Los Angeles County Superior Court case number GD038022.
2. On October 17, 2005, Respondent filed a substitution of attorney in Kostka's case naming him as Kostka's attorney of record.
3. Respondent simulated Kostka's signature on an Income and Expense Declaration, dated February 2, 2006; a Declaration of Disclosure, dated February 2, 2006; and an Application for Order and Supporting Declaration, dated February 2, 2006, and filed the declarations with the Court on February 28, 2006.
4. Respondent simulated Kostka's signature on a Reply Declaration of S. Scott Kostka in Response to the Responsive Declaration of Therese Anne Kostka, dated June 26, 2006, and filed the declaration with the Court on June 26, 2006.
5. The declarations filed by Respondent on February 28 and June 26, 2006, indicated to the court that Kostka, not Respondent, was declaring under penalty of perjury under the laws of the State of California that the matters stated in the declarations were true and correct.
6. Respondent did not inform the Court that he had simulated Kostka's signature on the declarations.

Conclusion of Law:

1. By simulating Kostka's signature on the declarations and filing the declarations with the Court on February 28 and June 26, 2006, without informing the Court that he had simulated Kostka's signature on the declarations, Respondent employed, for the purposes of maintaining the causes confided in him, means which are inconsistent with truth in wilful violation of Business and Professions Code section 6068(d).

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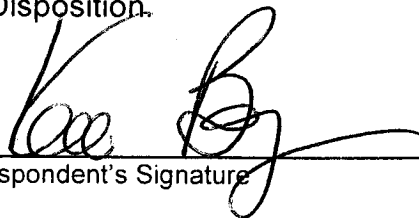
In the Matter of Keith H. Bray	Case number(s): 06-O-11728, 06-O-13919
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SIGNATURE OF THE PARTIES

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 Fact, Conclusions of Law and Disposition.

2-9-2010

Date



Respondent's Signature

Keith H. Bray

Print Name

Date

2/11/2010

Date

Respondent's Counsel Signature



Deputy Trial Counsel's Signature

Print Name

Jean H. Cha

Print Name

(Do not write above this line.)

In the Matter Of
Keith H. Bray

Case Number(s):
06-O-11728, 06-O-13919


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 135(b), 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.)**

02-18-10
Date


Judge of the State Bar Court

RICHARD A. PLATEL

CERTIFICATE OF SERVICE

[Rule 62(b), Rules Proc.; 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 February 18, 2010, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION

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:

**KEITH H. BRAY
ATTORNEY AT LAW
940 S COAST DR STE 215
COSTA MESA, CA 92626**

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

JEAN CHA, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on February 18, 2010.



Tammy Cleaver
Case Administrator
State Bar Court