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State Bar Court of California Hearing Department <input type="checkbox"/> Los Angeles <input checked="" type="checkbox"/> San Francisco		
Counsel for the State Bar Robin B. Brune Deputy Trial Counsel 180 Howard Street, 7th Floor San Francisco, CA 94105 (415) 538-2218 Bar # 149481	Case number(s) 05-0-00751-PEM	(for Court's use) PUBLIC MATTER FILED <i>[Signature]</i> APR 14 2006 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
<input type="checkbox"/> Counsel for Respondent <input checked="" type="checkbox"/> In Pro Per, Respondent James Partridge 2326 Reading Avenue Castro Valley, CA 94546 (510) 303-7236 Bar # 136207	Submitted to <input type="checkbox"/> assigned judge <input checked="" type="checkbox"/> settlement judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING REPROVAL <input type="checkbox"/> PRIVATE <input checked="" type="checkbox"/> PUBLIC <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of JAMES PARTRIDGE Bar # 136207 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 December 7, 1988
(date)
- (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 and order consist of 14 pages.
- (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.

(Do not write above this line.)

(8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):

- (a) costs added to membership fee for calendar year following effective date of discipline (public reproof)
- (b) case ineligible for costs (private reproof)
- (c) costs to be paid in equal amounts for the following membership years:
2006, 2007, 2008
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
- (d) costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
- (e) costs 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 [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 _____

(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 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.
- (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 victim of his/her misconduct~~ 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.

(Do not write above this line.)

- (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:

(Do not write above this line.)

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 two (2) years
- (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 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 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 condition period attached to the reproof. 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 reproof 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 thirty (30) 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 quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the monitor.

(Do not write above this line.)

- (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 of the Ethics School and passage of the test given at the end of that session.
- No Ethics School ordered. 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 required 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 ordered. Reason: court recommendation/mitigating circumstances
- (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 checked="" 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: James S. Partridge

CASE NUMBER(S): 05-O-00751, *et al.*

FACTS AND CONCLUSIONS OF LAW.

On or about April 27, 2002, respondent was hired by Lena Mae DeBow ("DeBow") to represent her in a personal injury action against McDonald's Corporation, eventually resulting in the filing of an action, *DeBow v. McDonald's*, Alameda County Superior Court, case no. HG03089388. The complaint in *DeBow v. McDonald's* was filed on or about April 1, 2003. During the course of litigation in *DeBow v. McDonald's*, respondent was required to appear at case management conferences scheduled for the following dates: August 18, 2003; October 6, 2003; November 3, 2003; November 20, 2003; February 24, 2004; April 13, 2004; May 21, 2004; August 27, 2004; and December 29, 2004. Respondent was sent notices of the case management conferences and failed to appear at them.

Following the October 6, 2003 case management conference, Judge Shepard imposed sanctions against respondent, payable to the court within ten (10) calendar days, in the amount of \$250.00. The court properly sent respondent notice of this imposition of sanctions. The court stayed the imposition of sanctions and ordered respondent to appear at a case management conference on November 3, 2003. The sanctions order is a valid, final and enforceable order.

Following the November 3, 2003 case management conference, Judge Shepard imposed the \$250.00 in sanctions that were previously stayed, against respondent, payable to the court within ten (10) calendar days. Respondent received notice of this imposition of sanctions promptly after November 3, 2003. To date, the \$250.00 in sanctions imposed following the November 3, 2003, case management conference remain unpaid. The sanctions order following the November 3, 2003, case management conference is a valid, final and enforceable order.

Following the November 20, 2003, case management conference, Judge Shepard imposed sanctions against respondent, payable to the court within ten (10) calendar days, in the amount of \$250.00. The court sent respondent notice of this imposition of sanctions promptly after November 20, 2003. To date, the \$250.00 in sanctions imposed following the November 20, 2003, case management conference remain unpaid. The sanctions order following the November 20, 2003, case management conference is a valid, final and enforceable order.

At the February 24, 2004, case management conference, Judge Shepard ordered respondent to execute a substitution of attorney form removing himself as DeBow's attorney of record in favor of attorney Joseph Johnson ("Johnson"). Judge Shepard also ordered respondent to provide DeBow's case file to Johnson "forthwith."¹ The Court set a further status conference for April 13, 2004.

Following the April 13, 2004, case management conference, Judge Shepard imposed sanctions against respondent, payable to the court within ten (10) calendar days, in the amount of \$1,000.00. These sanctions were not for failure to make discovery.² To date, the \$1,000.00 in sanctions imposed following the April 13, 2004, case management conference remain unpaid. The sanctions order following the April 13, 2004, case management conference is a valid, final and enforceable order.

Following the May 21, 2004, case management conference, Judge Shepard imposed sanctions against respondent, payable to the court within ten (10) calendar days, in the amount of \$1,000.00. These sanctions were not for failure to make discovery. The court sent respondent notice of this imposition of sanctions promptly after May 21, 2004. To date, the \$1,000.00 in sanctions imposed following the May 21, 2004, case management conference remain unpaid. The sanctions order following the May 21, 2004, case management conference is a valid, final and enforceable order.

Following the August 27, 2004, case management conference, Judge Shepard imposed sanctions against respondent, payable to the court within ten (10) calendar days, in the amount of \$1,000.00. These sanctions were not for failure to make discovery. The court sent respondent notice of this imposition of sanctions promptly after August 27, 2004. To date, the \$1,000.00 in sanctions imposed following the August 27, 2004, case management conference remain unpaid. The sanctions order following the August 27, 2004, case management conference is a valid, final and enforceable order.

After respondent failed to appear at case management conferences, his client DeBow, sought to terminate his services and substitute attorney Johnson. Respondent communicated with Johnson regarding transfer of the file and execution of a substitution of attorney. However, the substitution of attorney and the transfer of the file were never completed.

¹ The State Bar ordered the court records in this matter and there was no proof of service in the court's file that this document was served on respondent. However, the court is presumed to provide notice as required by law.

² There is no proof of service in the court's file that this document was served on respondent. However, the court is presumed to provide notice as required by law.

Respondent's file reflects that he received a letter dated December 2, 2003, from Johnson informing him that DeBow had retained Johnson to take over the case. There was also a reply letter dated December 8, 2003, from respondent to Johnson, indicating that a substitution of attorney was enclosed and the file could be picked up by messenger. A signed substitution form was also in respondent's file, executed by all parties.

Respondent received another letter dated February 20, 2004 from Johnson. Johnson advised that on December 2, 2003 a substitution of attorney form had been sent to respondent, and he had failed to return it. Johnson also reported that he never received the file.

The file also reflects that respondent sent a fax cover sheet for "substitution of attorney" to Johnson on January 22, 2004. Respondent's file also reflects that he sent a fax to Johnson on February 20, 2004. However, this substitution had never been filed with the court.

DeBow v. McDonald's was dismissed by the court on or about August 12, 2005.

Conclusions of Law

1. By failing to assure the transfer of the file to subsequent counsel or DeBow, and by failing to assure that the substitution of attorney was filed with the court, respondent failed to properly withdraw, in wilful violation of Rules of Professional Conduct, rule 3-700(A).

2. By failing to pay the court ordered sanctions of \$3,500.00, respondent wilfully disobeyed orders of the court requiring him to do an act connected with or in the course of respondent's profession which he ought in good faith have done, in wilful violation of Business and Professions Code, section 6103.

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was January 3, 2006.

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>
05-O-00751	One	RPC 3-110(A)

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
05-O-00751	Three	B&P Code § 60689(o)(3)
05-O-00751	Four	B&P Code § 6068(m)
05-O-00751	Five	B&P Code § 6068(j)
05-O-00751	Six	B&P Code § 6068(i)

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of January 4, 2006, the estimated prosecution costs in this matter are approximately \$2,336.00. Respondent acknowledges that this figure is an estimate only and that it does not include State Bar Court costs which will be included in any final cost assessment. 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.

AUTHORITIES SUPPORTING DISCIPLINE.

In the Matter of Hanson (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 703

In the Matter of Respondent G (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 181

Baker v. State Bar (1989) 49 Cal.3d 804

Hulland v. State Bar (1972) 8 Cal.3d 440

AGGRAVATING CIRCUMSTANCES.

Standard 1.2 (b)(iv) – significant harm.

FACTS SUPPORTING AGGRAVATING CIRCUMSTANCES.

Respondent's client lost her cause of action. She was unable to maintain her suit as respondent had in his possession key evidence. Further, she was unable to find new counsel willing to take the case under the circumstances.

MITIGATING CIRCUMSTANCES.

Standard 1.2(e)(ii) – good faith

Standard 1.2(e) – extreme emotional difficulties

Standard 1.2(e)(v) – candor in State Bar proceedings

FACTS SUPPORTING MITIGATING CIRCUMSTANCES.

Respondent suffered the loss of his wife to terminal cancer. She was in her late thirties when she passed away. During the period in which the misconduct occurred, respondent was struggling with his new obligations as a single parent to three children. Due to his childcare responsibilities and his period of mourning and readjustment, his attention to his practice suffered.

Respondent has been cooperative with the State Bar litigation in this matter.

ADDITIONAL MITIGATING CIRCUMSTANCES.

Respondent considered the matter taken care of when he exchanged information with Johnson regarding the substitution of attorney. He thereafter ignored the court orders because he mistakenly believed that Johnson would be taking over the case and no further action on his part would be required. He subsequently moved without notifying the court, so may not have received all of the sanctions orders.

STATE BAR ETHICS SCHOOL.

Because respondent has agreed to attend State Bar Ethics School as part of this stipulation, respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School.

MULTISTATE PROFESSIONAL RESPONSIBILITY EXAMINATION EXCLUSION.

It is recommended that respondent not be required to take the Multistate Professional Responsibility Examination.

FINANCIAL CONDITIONS, RESTITUTION.

Within two years from the effective date of discipline in this matter, respondent must make restitution to the Superior Court, County of Alameda, or the Client Security Fund if it has paid, in the principal amount of \$3,500.00, and furnish satisfactory evidence of restitution to the Probation Unit. Respondent shall include in each quarterly report required herein satisfactory evidence of all restitution payments made by him or her during that reporting period, and shall make monthly payments of not less than \$100 towards the court ordered sanctions. In the event that respondent obtains a court order reducing the amount of the sanctions, respondent will be required to pay the lesser amount as specified in the court order. Respondent shall provide the Probation Unit a copy of any subsequent court orders regarding the sanctions.

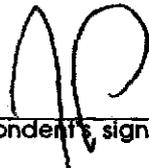
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In the Matter of JAMES PARTRIDGE	Case number(s): 05-0-00751
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SIGNATURE OF THE PARTIES

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.

3/10/06
Date


Respondent's signature

JAMES PARTRIDGE
Print name

Date

Respondent's Counsel's signature

Print name

3/16/06
Date


Deputy Trial Counsel's signature

ROBIN B. BRUNE
Print name

(Do not write above this line.)

In the Matter of James Partridge	Case number(s): 05-O-00751
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ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproval, 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 Hearing dates are vacated.

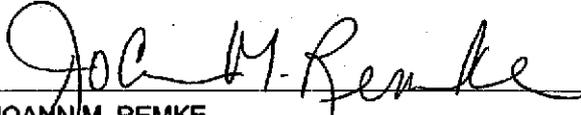
The court hereby orders that the Stipulation is modified as follows:

1. On page 2, under section A(8)(c), the year "2006" is deleted. It is too late to include the costs in the membership fees for this year. Respondent must pay the costs in equal amounts for the years 2007 and 2008.
2. On page 3, under section C(1), an "x" is inserted in the box, indicating that "no prior discipline" is considered in mitigation. Respondent has been admitted since December 7, 1988, and has no prior record of discipline.

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.) **Otherwise the stipulation shall be effective 15 days after service of this order.**

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

4/14/06
Date


JOANN M. REMKE
Judge of the State Bar Court

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 San Francisco, on April 14, 2006, 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:

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

**JAMES S. PARTRIDGE
2326 READING AVE
CASTRO VALLEY, CA 94546**

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

ROBIN BRUNE, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on April 14, 2006.



Bernadette C. O. Molina
Case Administrator
State Bar Court