

RECEIVED

(Do not write above this line.)

State Bar Court of California
Hearing Department
Los Angeles
ALTERNATIVE DISCIPLINE PROGRAM

JAN 14 2010

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

Counsel For The State Bar

CHARLES A. MURRAY
DEPUTY TRIAL COUNSEL
1149 South Hill Street
Los Angeles, California 90015-2299
(213) 765-1236

Case Number (s) *OX*
07-O-11193-RAP

(for Court's use)

PUBLIC MATTER

FILED

Bar # 146069

OCT 05 2010

In Pro Per Respondent

WAYNE W. SUOJANEN
23411 Aliso Viejo Pkwy., Ste. K-273
Aliso Viejo, CA 92656
(949) 448-7529

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

Bar # 193627

Submitted to: **Program Judge**
FIRST AMENDED
STIPULATION RE FACTS AND CONCLUSIONS OF LAW

In the Matter Of:
Wayne W. Suojanen

RE: ADP STIPULATION IN CASE NOS.
04-0-15147 & 05-0-04615

Bar # 193627

PREVIOUS STIPULATION REJECTED

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
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, except as otherwise provided in rule 804.5(c) of the Rules of Procedure, if Respondent is not accepted into the Alternative Discipline Program, this stipulation will be rejected and will not be binding on the Respondent or the State Bar.
- (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, except for Probation Revocation proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of *8* pages, excluding the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."



(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) 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.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7 and will pay timely any disciplinary costs imposed in this proceeding.

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:

See Prior ADP Stipulation [04-O-15147 & 05-O-04615] for which Respondent is participating in ADP.
- (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.
See page 6
- (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 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:

ATTACHMENT TO
FIRST AMENDED ADP STIPULATION RE FACTS AND CONCLUSIONS OF LAW

IN THE MATTER OF: **WAYNE W. SUOJANEN**
CASE NUMBER(s): **07-O-11193-RAP**

MEMBER # **193627**

PENDING PROCEEDINGS

The disclosure date referred to on page one, paragraph A.(6), was September 11, 2009.

PRIOR ADP STIPULATION - INCORPORATION

Respondent and the State Bar previously entered into an ADP stipulation in case nos. 04-O-15147 & 05-O-04615 and upon that stipulation Respondent was admitted to the ADP on August 9, 2007. This stipulation is hereby incorporated with and amends that prior ADP stipulation as if set forth as one and in full here.

STIPULATION AS TO 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, or that he has otherwise committed acts of misconduct warranting discipline, as follows:

Facts for Case No. 07-O-11193

1. In November 2005, Respondent represented Paul Yoo in a civil matter entitled *Yoo v. Lowes*, Orange County Superior Court, case no. 05NL24216.
2. Respondent failed to appear at the following hearings in *Yoo v. Lowes*:

DATE	HEARING
April 26, 2006	Mandatory Case Management Conference
June 21, 2006	Mandatory Case Management Conference
July 12, 2006	OSC re: Monetary Sanctions
September 13, 2006	OSC re: Monetary Sanctions
October 4, 2006	OSC re: Monetary Sanctions

3. On October 4, 2006, the court dismissed *Yoo v. Loews*, on the court's own motion, for failure to prosecute.

4. Respondent failed to timely pay his State Bar membership dues for the year of 2004.

5. On August 27, 2004, the California Supreme Court issued an order (S126962), effective September 16, 2004, suspending Respondent from the practice of law as a result of Respondent's failure to pay his State Bar of California membership fees. On August 27, 2004, the State Bar membership records office properly served a copy of this order on Respondent at his State Bar membership records address. Respondent received this service. Respondent remained suspended until he paid his fees and was reinstated to active practice on October 14, 2004.

6. While Respondent was actually suspended from the practice of law, Respondent practiced law on multiple occasions. including but not limited to, the following:

DATE	EVENT
September 16, 2004	Appearance – Orange County Superior Court (OCSC), <i>Jneid v. TriPole Corp</i> , case no. 02CC0018. (the <i>Jneid</i> case)
September 22, 2004	Appearance –Deposition, the <i>Jneid</i> case
September 24, 2004	Appearance –the <i>Jneid</i> case
September 27, 2004	Filing - Answer: OCSC, <i>Augustine v.Delta</i> , case no. 03CC08666 (the <i>Augustine</i> case)
September 28, 2008	Filing – the <i>Jneid</i> case: Plaintiff's statement of case; controverted issues list, plaintiff's proposed voir dire
October 4, 2004	Appearance – the <i>Jneid</i> case
October 6, 2004	Filing - the <i>Jneid</i> case: Plaintiff's oppositions to motions in limine,
October 8, 2004	Filing – Notice of Ruling, OCSC <i>Johnson v.Interworks</i> case no. 04CC08957

7. On each of the dates listed above, Respondent did not tell the court or any judicial officers that he was suspended from the practice of law.

8. Respondent knew or should have known that he was suspended from the practice of law from September 16, 2004 through October 14, 2004.

9. On August 5, 2005, The State Bar of California, Office of Certification – MCLE, sent a letter to Respondent via certified mail. (MCLE August letter) The MCLE August letter informed Respondent that he had not complied with the MCLE rules and regulations for his compliance period. On August 9, 2005, Respondent received the MCLE August letter.

(Do Not Write Above This Line)

10. The MCLE August letter stated that: "if you fail to comply with the minimum continuing legal education (MCLE) requirement by **September 15, 2005 at 5:00 p.m.**, you shall be enrolled as an inactive member ("Not Entitled" to practice) of the State Bar and will not be permitted to practice law until such time as adequate proof of compliance is received by the State Bar." (emphasis in original)

11. Respondent did not comply with the MCLE requirements by September 15, 2005 and was enrolled as an inactive member of the California State Bar on September 16, 2009.

12. On September 23, 2005, the Office of Certification – MCLE sent a letter to Respondent informing him that he was "enrolled on not eligible status effective September 16, 2005." Respondent received the September 23, 2005 letter.

13. While Respondent was actually not entitled to practice law, Respondent practiced law on multiple occasions. including but not limited to, the following:

DATE	EVENT
September 19, 2005	Appearance – U.S. District Court, Central District (USDC), <i>TriPole v. Novell</i> , case no. SA CV05-259-DOC(RNBx)
September 23, 2005	Participated in telephonic "meet & confer", the <i>Jneid</i> case
September 26, 2005	Filed – Opening Brief and exhibits, 4 th District Appellate Court, Division 3, case no. G035575 <i>Johnson v. Sanmima</i>

14. On each of the dates listed above, Respondent did not tell the court or any judicial officers involved in these proceedings that he was suspended from the practice of law.

15. On October 11, 2005, Respondent complied with the MCLE rules and was reinstated to active status.

16. Respondent knew or should have known that he was suspended from the practice of law from September 16, 2005 through October 11, 2005.

///
///
///
///
///
///
///
///
///
///
///

RESPONDENT:

(Printed: 09/11/09)

6
Page

(PROGRAM)

Attachment Page 3

Conclusions of Law for Case No. 07-O-11193

17. By failing to appear for five (5) hearings in John Yoo's civil matter and allowing the case to be dismissed for failure to prosecute Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).
18. By appearing in court, in conferences, and at depositions, and by filing pleadings on behalf of his clients, all at times when he was not entitled to practice law, Respondent held himself out as entitled to practice law and actually practiced law when he was not an active member of the State Bar in violation of Business and Professions Code sections 6125 and 6126 and thereby failed to support the laws of the State of California, in willful violation of Business and Professions Code, section 6068(a).
19. By misrepresenting to the court and to officers of the court in the matters described above that he was entitled to practice law when he was not an active member of the State Bar, Respondent committed an act, or acts, involving moral turpitude, dishonesty or corruption, in willful violation of Business and Professions Code, section 6106.

///
///
///
///

AGGRAVATING CIRCUMSTANCES:

B.(4) HARM.

Client Yoo was significantly harmed by Respondent's failure to prosecute his cause and the resulting dismissal of his action.

Harm to the administration of justice is inherent in the Unauthorized Practice of Law.

(Do not write above this line.)

In the Matter of WAYNE W. SUOJANEN Member # 193627	Case number(s): 07-O-11193-RAP
--	---------------------------------------

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 and Conclusions of Law.

Respondent enters into this stipulation as a condition of his/her participation in the Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Program Contract.

If the Respondent is not accepted into the Program or does not sign the Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

If the Respondent is accepted into the Program, this Stipulation will be filed and will become public. Upon Respondent's successful completion of or termination from the Program, the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Confidential Statement of Alternative Dispositions and Orders shall be imposed or recommended to the Supreme Court.

11-30-09 Wayne W. Suojanen WAYNE W. SUOJANEN
Date Respondent's Signature Print Name

Date Respondent's Counsel Signature Print Name

1-14-2010 [Signature] CHARLES A. MURRAY
Date Deputy Trial Counsel's Signature Print Name

(Do not write above this line.)

In the Matter Of WAYNE W. SUOJANEN Member # 193627	Case Number(s): 07-O-11193-RAP
---	--

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 stipulation as to facts and conclusions of law is APPROVED.
- The stipulation as to facts and conclusions of law is APPROVED AS MODIFIED as set forth below.
- 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; or 3) Respondent is not accepted for participation in the Program or does not sign the Program Contract. (See rule 135(b) and 802(a), Rules of Procedure.)

03-24-10
Date


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 Los Angeles, on March 25, 2010, I deposited a true copy of the following document(s):

AGREEMENT AND ORDER AMENDING CONTRACT AND WAIVER FOR PARTICIPATION IN THE STATE BAR COURT'S ALTERNATIVE DISCIPLINE PROGRAM

ORDER AMENDING CONFIDENTIAL STATEMENT OF ALTERNATIVE DISCIPLINE DISPOSITIONS AND ORDERS

STIPULATION RE FACTS AND CONCLUSIONS OF LAW

in a sealed envelope for collection and mailing on that date as follows:

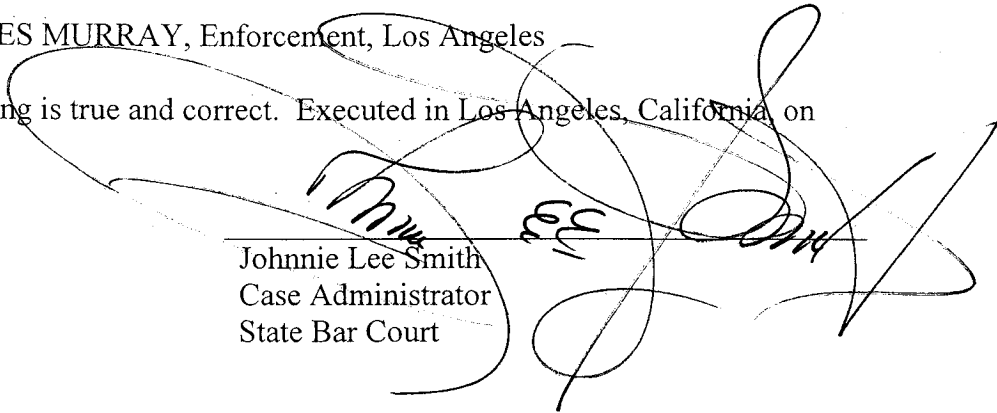
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

WAYNE W. SUOJANEN
SUOJANEN LAW OFC
26895 ALISO CREEK RD STE B-440
ALISO VIEJO, CA 92656

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

CHARLES MURRAY, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on March 25, 2010.



Johnnie Lee Smith
Case Administrator
State Bar Court