



ORIGINAL

(Do not write above this line.)

State Bar Court of California		
Hearing Department <input checked="" type="checkbox"/> Los Angeles <input type="checkbox"/> San Francisco		
Counsel for the State Bar William F. Stralka Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1091 Bar # 056147	Case number(s) 05-O-00937	(for Court's use) <div style="text-align: center;"> FILED SEP 15 2005 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
<input checked="" type="checkbox"/> Counsel for Respondent <input type="checkbox"/> In Pro Per, Respondent David C. Carr 600 W. Broadway, Suite 900 San Diego, CA 92101 Bar # 124510	<h1 style="margin: 0;">PUBLIC MATTER</h1>	
In the Matter of Maxwell Agha Bar # 153625 = A Member of the State Bar of California (Respondent)	Submitted to <input checked="" type="checkbox"/> assigned judge <input type="checkbox"/> settlement judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

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 28, 1991
(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 11 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):

- 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:
2006, 2007, 2008, 2009
(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 99-0-13435 (S127222)

(b) Date prior discipline effective December 4, 2004

(c) Rules of Professional Conduct/ State Bar Act violations: rules 1-300, 3-110 (A), Rules of Professional Conduct; sections 6106, 6068(d), Business and Professions Code.

(d) Degree of prior discipline 90 days actual, two years stayed and two years probation.

(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.

(Do not write above this line.)

- (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. *See additional mitigating circumstances.*
- (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.

(Do not write above this line.)

- (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 was misinformed by the Office of Probation as to the effective date for Rule 955 compliance.

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 ONE YEAR, which will commence upon the effective date of the Supreme Court order in this matter.
(See rule 953, Calif. Rules of Ct.)

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(3) **Actual Suspension:**

(a) Respondent must be actually suspended from the practice of law in the State of California for a period of THIRTY (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.

(Do not write above this line.)

- (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: Condition imposed in 99-0-13435.

- (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 951(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**

No MPRE recommended. Reason: Condition imposed in case no. 99-0-13435

- (2) **Rule 955, California Rules of Court:** Respondent must comply with the requirements of rule 955, 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, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 955, 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:**

Probation to be concurrent to the probation imposed by the Supreme Court in case number 99-0-13435 (S127222).

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: MAXWELL C. AGHA

CASE NOS.: 05-O-00937

PENDING PROCEEDINGS:

The disclosure date referred to, on page one, paragraph A.(6), was August 4, 2005.

PARTIES ARE BOUND BY THE STIPULATED FACTS:

The Parties intend to be and are hereby bound by the stipulation to facts contained in this stipulation. This stipulation as to facts, and the facts so stipulated shall independently survive, even if the conclusions of law and/or stipulated disposition set forth herein are rejected, or changed in any matter whatsoever, by the Hearing Department or the Review Department of the State Bar Court, or by the California Supreme Court.

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 has otherwise committed acts of misconduct warranting discipline.

FACTS: CASE NO.: 05-O-00937

1. MAXWELL CHUCK AGHA ("Respondent") was admitted to the practice of law in the State of California on June 28, 1991, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California. On December 4, 2004, Respondent was suspended actually from the practice of law for 90 days until March 4, 2005.

2. On October 13, 2003, Robert Hom ("Hom") employed Respondent to represent him in a personal injury matter.

3. ~~On October 13, 2003, Respondent wrote to Hartford Insurance Company ("Hartford") informing them of his representation of Hom.~~ DC WFS

4. ~~On October 13, 2003, Respondent requested a copy of the traffic collision report regarding Hom's accident from the San Diego Police Department.~~ DC WFS

5. ~~On June 3, 2004, Respondent wrote to The Inner Path to request a copy of Hom's medical records.~~ DC WFS

6. On November 4, 2004, the Supreme Court of California issued Order No. S127222, actually suspending Respondent from the practice of law for a period of ninety (90) days, effective December 4, 2004.

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

7. In the Supreme Court's order filed November 4, 2004, Respondent was ordered to comply with California Rules of Court, rule 955, subdivisions (a) and (c). Subdivision (a) required Respondent to inform all of his clients of the suspension within thirty (30) days after the effective date of the order, (December 4, 2004), or January 3, 2005, and subdivision (c) required Respondent to file a proof of compliance with rule 955(a) within forty (40) days after the effective date (December 4, 2004) or January 13, 2005.

8. Respondent did not inform Hom of his suspension until on or about January 12, 2005. Respondent did not file a proof of compliance with the Supreme Court order with the Probation Department until on or about January 20, 2005.

CONCLUSIONS OF LAW:

By failing to timely comply with the Supreme Court orders to inform his client of his suspension, and to timely file a proof of compliance with the Supreme Court orders, Respondent wilfully violated Business and Professions Code, section 6103, by wilfully disobeying or violating an order of the court requiring him to do or forbear an act connected with or in the course of Respondent's profession which he ought in good faith to do or forbear.

SUPPORTING LAW:

In the Matter of Friedman (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 527.

Respondent defaulted in two disciplinary cases. As a result of the second case, respondent received a five-month actual suspension and was required to comply with rule 955 of the California Rules of Court. Although he properly advised his clients of his suspension, he did not file the affidavit required by rule 955 until two weeks after it was due. Because of compelling mitigating circumstances, the likelihood that respondent would remain suspended for a considerable period due to three separate orders, and the lack of any public protection concerns, the hearing judge declined to impose any additional discipline for respondent's wilful violation. The review department imposed a thirty day actual suspension for Respondent's failure to comply with rule 955(c).

COSTS OF DISCIPLINARY PROCEEDINGS

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of August 1, 2005, the estimated prosecution costs in this matter are approximately \$ 1,983.00. 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.

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

WAIVER OF REVIEW BY REVIEW DEPARTMENT

Pursuant to Rules of Procedure of the State Bar of California, rule 251, the parties hereto stipulate to a waiver of review by the Review Department, and request that the disciplinary recommendation in this matter be transmitted to the Supreme Court on an expedited basis.

(Do not write above this line.)

In the Matter of MAXWELL AGHA	Case number(s): 05-0-00937
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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.

8/16/05
Date


Respondent's signature

MAXWELL AGHA
Print name

8/16/05
Date


Respondent's Counsel's signature

DAVID C. CARR
Print name

8-18-05
Date


Deputy Trial Counsel's signature

WILLIAM F. STRALKA
Print name

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In the Matter of MAXWELL AGHA	Case number(s): 05-0-00937
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ORDER

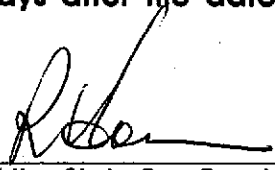
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- 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 953(a), California Rules of Court.)

9/13/05

Date



Judge of the State Bar Court

RICHARD A. HONN

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 September 15, 2005, 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 Los Angeles, California, addressed as follows:

**DAVID C CARR
ATTORNEY AT LAW
600 W BROADWAY STE 900
SAN DIEGO, CA 92101 3354**

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

William Stralka, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **September 15, 2005**.


Milagro del R. Salmeron
Case Administrator
State Bar Court