
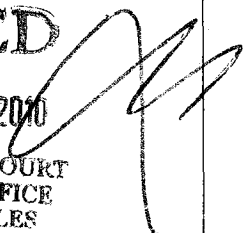


PUBLIC MATTER

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State Bar Court of California Hearing Department Los Angeles			kwiktag® 035 131 732 
Counsel For The State Bar Bitu Shasty 1149 S. Hill Street Los Angeles, California 90015 Bar # 225177	Case Number (s) 09-N-13626	(for Court's use) <div style="text-align: center;"> FILED SEP 08 2010 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div> 	
Counsel For Respondent Arthur L. Margolis 2000 Riverside Drive Los Angeles, California 90039-3758 Bar # 132699	Submitted to: Assigned Judge		
In the Matter Of: BRIAN G. MAGRUDER Bar # 229675 A Member of the State Bar of California (Respondent)	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 December 29, 2003.
- (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 10 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."

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- (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: Two billing cycles following the effective date of the Supreme Court Order.
(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 06-O-13457
 - (b) Date prior discipline effective March 26, 2009
 - (c) Rules of Professional Conduct/ State Bar Act violations: Rules of Professional Conduct, rule 3-110(A); rule 3-700(A); rule 4-100(B)(3); rule 3-110(A); rule 3-700(A)(2); B&P section 6068(m).
 - (d) Degree of prior discipline 90 days actual suspension, 2 years stayed suspension.
 - (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.
- (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.

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- (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. See Attachment page page 8
- (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. See Attachment page 8
- (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

D. Discipline:

(1) **Stayed Suspension:**

- (a) Respondent must be suspended from the practice of law for a period of 1 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 2 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 six (6) months.
- 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: Respondent is currently on probation and is required to attend Ethics School by February 16, 2011.
- (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 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
- No MPRE recommended. Reason: Respondent took and passed the MPRE on August 7, 2009.

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- (2) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule **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 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 **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:**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: BRIAN G. MAGRUDER

CASE NUMBER(S): 09-N-13626

FACTS AND CONCLUSIONS OF LAW.

Respondent Brian G. Magruder ("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.

FACTS

1. On February 24, 2009, the Supreme Court of the State of California filed a disciplinary order in case number S169275 (hereinafter, the "Order") based on State Bar case numbers 06-O-13457 and 06-O-13460.
2. The Order included a requirement that Respondent comply with California Rules of Court, rule 9.20 ("rule 9.20"), by performing the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, of the effective date of the Order.
3. On February 24, 2009, the Clerk of the Supreme Court of the State of California properly served a copy of the Order on Respondent. Respondent received the Order.
4. The Order became effective on March 26, 2009, thirty days after it was filed, and at all times thereafter remained in full force and effect.
5. Pursuant to the Order, Respondent was required to comply with subdivision (c) of rule 9.20 no later than May 5, 2009, by filing with the Clerk of the State Bar Court a declaration of compliance with subdivision (a) of rule 9.20.
6. Respondent did not file with the Clerk of the State Bar Court by May 5, 2009, a declaration of compliance with rule 9.20.
7. On December 1, 2009, Respondent filed with the Clerk of the State Bar Court a declaration of compliance with rule 9.20.

CONCLUSIONS OF LAW (COUNT ONE)

8. By failing to timely file a declaration of compliance with rule 9.20 as required by the Order, Respondent wilfully violated subdivision (c) of rule 9.20, California Rules of Court.

AGGRAVATING CIRCUMSTANCES

Prior Record of Discipline. (Standard 1.2(b)(i))

Respondent has a prior record of discipline. This is an aggravating circumstance under Standard 1.2(b)(i) of the Standards for Attorney Sanctions for Professional Misconduct ("Standards"). In case no. 06-O-13457, effective March 26, 2009, Respondent received 2 years stayed suspension and 90 days actual suspension and until the State Bar Court grants a motion to terminate his actual suspension pursuant to rule 205 of the Rules of Procedure of the State Bar of California. Respondent was found culpable of Rules of Professional Misconduct, rule 3-110(A), rule 3-700(A), rule 4-100(B)(3), rule 3-110(A), rule 3-700(A)(2) and B&P section 6068(m).

MITIGATING CIRCUMSTANCES

Remorse. (Standard 1.2(e)(vii))

Respondent recognizes his mistakes and the wrongfulness of his actions and is remorseful. Respondent demonstrated acknowledgment of his mistakes by promptly filing his 9.20 declaration prior to the filing of disciplinary charges. Once the State Bar contacted Respondent regarding the current matter, Respondent immediately took the necessary actions to be in compliance with his probationary conditions. Respondent also explained the reasons (see below) and underlying personal circumstances at the time of the misconduct which he acknowledged were not an excuse, but rather an explanation.

Family Problems.

At the time of the misconduct, Respondent was going through very difficult times in his personal life. Respondent's engagement to his fiancée ended under very bad circumstances resulting in Respondent questioning every decision he had made as an adult. Respondent decided to close his law practice and moved to live and work in Mexico teaching English as a second language. Respondent's decision to close his practice was predicated on the fact that his personal life was in shambles. Respondent has acknowledged that running away from his problems was not the appropriate action to take and has since taken steps to be in compliance with his probationary conditions.

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), July 16, 2010.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of July 16, 2010, the approximate costs in this matter is \$1,641.00. 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.

Standard 1.3, Title IV, Standards for Attorney Sanctions for Professional Misconduct, provides that the primary purposes of the disciplinary system are: "the protection of the public, the courts and the

legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession.”

Recently, the Supreme Court emphasized the importance of the standards and held that great weight should be given to the application of the standards in determining the appropriate level of discipline. The Court indicated that unless it has “grave doubts as to the propriety of the recommended discipline,” it will uphold the application of the standards. *In re Silverton* (2005) 36 Cal. 4th 81, 91-92.

Standard 1.7 (a) addresses the effects of prior discipline as follows: “If a member is found culpable of professional misconduct in any proceeding in which discipline may be imposed and the member has a record of one prior imposition of discipline as defined by standard 1.2(f), the degree of discipline imposed in the current proceeding shall be greater than that imposed in the prior proceeding unless the prior discipline imposed was so remote in time to the current proceeding and the offense for which it was imposed was so minimal in severity that imposing greater discipline in the current proceeding would be manifestly unjust.”

Rule 9.20(d)¹ of the California Rules of Professional Conduct states:

“...A suspended member’s willful failure to comply with the provisions of this rule constitutes a cause for disbarment or suspension and for revocation of any pending probation. Additionally, such failure may be punished as a contempt or a crime.”

Respondent’s first prior record of discipline included 90 days of actual suspension. The current matter being stipulated to is for 6 months actual suspension. Therefore, the discipline is in the appropriate range of standard 1.7(a).

Furthermore, as explained above under the mitigating circumstances of “family problems” the events that occurred during the period of misconduct were a time in Respondent’s life that were extraordinary and extremely difficult and unlikely to recur. In addition, Respondent has acknowledged that he did not appropriately handle the original charges against him and would absolutely do things differently if he could turn back the clock. For the reasons set forth above, the State Bar believes disbarment is not the appropriate discipline under the circumstances of this matter and recommends six (6) months actual suspension would be appropriate.

¹ Formerly rule 955(d), Rules of Court.

(Do not write above this line.)

In the Matter of BRIAN G. MAGRUDER, No. 229675	Case number(s): 09-N-13626
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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.

08/06/2010

Date

8/17/10

Date

8/19/10

Date

Brian Magruder

Respondent's Signature

Arthur Margolis

Respondent's Counsel Signature

Bita Shasty

Deputy Trial Counsel's Signature

BRIAN G. MAGRUDER

Print Name

ARTHUR L. MARGOLIS

Print Name

BITA SHASTY

Print Name

(Do not write above this line.)

In the Matter Of BRIAN G. MAGRUDER, No. 229675	Case Number(s): 09-N-13626
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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 9.18(a), California Rules of Court.)**

09-08-10
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 September 8, 2010, 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:

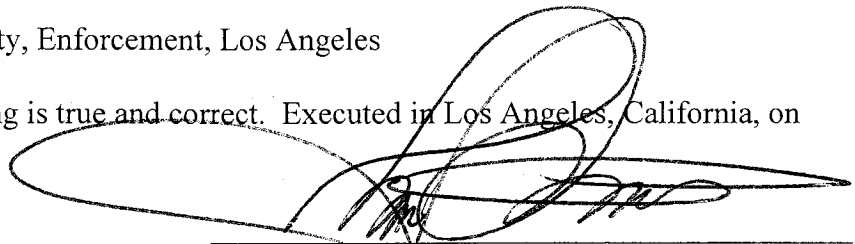
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

ARTHUR LEWIS MARGOLIS
MARGOLIS & MARGOLIS LLP
2000 RIVERSIDE DR
LOS ANGELES, CA 90039

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

Bitu Shasty, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 8, 2010.



Johnnie Lee Smith
Case Administrator
State Bar Court