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**State Bar Court of California
Hearing Department
San Francisco
STAYED SUSPENSION**

<p>Counsel for the State Bar</p> <p>Dina E. Goldman Senior Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2077</p> <p>Bar # 142601</p>	<p>Case Number(s): 17-C-07050-LMA</p>	<p>For Court use only</p> <p style="text-align: center;">PUBLIC MATTER</p> <p style="text-align: center;">FILED </p> <p style="text-align: center;">OCT 17 2018</p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>Counsel For Respondent</p> <p>Anthony Patrick Radogna Law Offices of Anthony Radogna 1 Park Plaza, Suite 600 Irvine, CA 92614-5987 (949) 852-7312</p> <p>Bar # 261859</p>	<p style="text-align: center;">kwiktag® 241 070 334</p>	<p>Submitted to: Assigned Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>STAYED SUSPENSION; NO ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>
<p>In the Matter of: TRISHA DANIELLE FIGUEROA aka TRISHA DANIELLE MAUER</p> <p>Bar # 204156</p> <p>A Member of the State Bar of California (Respondent)</p>		

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **December 7, 1999**.
- (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 **16** 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."

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- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. It is recommended that (check one option only):
- Costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.
 - Costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. **SELECT ONE** of the costs must be paid with Respondent's membership fees for each of the following years:

If Respondent fails to pay any installment as described above, or as may be modified in writing by the State Bar or the State Bar Court, the remaining balance will be due and payable immediately.
 - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs."
 - Costs are entirely waived.

B. Aggravating Circumstances [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(h) & 1.5]. Facts supporting aggravating circumstances are required.

- (1) **Prior record of discipline:**
- (a) State Bar Court case # of prior case:
 - (b) Date prior discipline effective:
 - (c) Rules of Professional Conduct/ State Bar Act violations:
 - (d) Degree of prior discipline:
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by misrepresentation.
- (4) **Concealment:** Respondent's misconduct was surrounded by, or followed by concealment.
- (5) **Overreaching:** Respondent's misconduct was surrounded by, or followed by overreaching.

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- (6) **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.
- (7) **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.
- (8) **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice. **See page 12.**
- (9) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of Respondent's misconduct.
- (10) **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of Respondent's misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11) **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing.
- (12) **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) **Restitution:** Respondent failed to make restitution.
- (14) **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

Prior DUI. See page 12.

C. Mitigating Circumstances [Standards 1.2(i) & 1.6]. 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 likely to recur.
- (2) **No Harm:** Respondent did not harm the client, the public, or the administration of justice.
- (3) **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of Respondent's misconduct or to the State Bar during disciplinary investigations and proceedings.
- (4) **Remorse:** Respondent promptly took objective steps demonstrating spontaneous remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of Respondent's 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 Respondent.
- (7) **Good Faith:** Respondent acted with a good faith belief that was honestly held and objectively reasonable.

- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct, Respondent suffered extreme emotional difficulties or physical or mental 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 Respondent, such as illegal drug or substance abuse, and the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.
- (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 Respondent's control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in Respondent's personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's extraordinarily 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 Respondent's misconduct.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances:

No prior record of discipline. See page 12.

Pre trial stipulation. See page 12.

D. Recommended Discipline:

Stayed Suspension:

Respondent is suspended from the practice of law for **one year**, the execution of that suspension is stayed, and Respondent is placed on probation for **three years** with the following conditions.

- (1) **Review Rules of Professional Conduct:** Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must (1) read the California Rules of Professional Conduct (Rules of Professional Conduct) and Business and Professions Code sections 6067, 6068, and 6103 through 6126, and (2) provide a declaration, under penalty of perjury, attesting to Respondent's compliance with this requirement, to the State Bar's Office of Probation in Los Angeles (Office of Probation) with Respondent's first quarterly report.
- (2) **Comply with State Bar Act, Rules of Professional Conduct, and Probation Conditions:** Respondent must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all conditions of Respondent's probation.
- (3) **Maintain Valid Official Membership Address and Other Required Contact Information:** Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must make certain that the State Bar Attorney Regulation and Consumer Resources Office (ARCR) has Respondent's current office address, email address, and telephone number. If Respondent does not maintain an office, Respondent must provide the mailing address, email address, and telephone number to be used for State Bar purposes. Respondent must report, in writing, any change in the above information to ARCR, within ten (10) days after such change, in the manner required by that office.

- (4) **Meet and Cooperate with Office of Probation:** Within 15 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must schedule a meeting with Respondent's assigned probation case specialist to discuss the terms and conditions of Respondent's discipline and, within 30 days after the effective date of the court's order, must participate in such meeting. Unless otherwise instructed by the Office of Probation, Respondent may meet with the probation case specialist in person or by telephone. During the probation period, Respondent must promptly meet with representatives of the Office of Probation as requested by it and, subject to the assertion of applicable privileges, must fully, promptly, and truthfully answer any inquiries by it and provide to it any other information requested by it.
- (5) **State Bar Court Retains Jurisdiction/Appear Before and Cooperate with State Bar Court:** During Respondent's probation period, the State Bar Court retains jurisdiction over Respondent to address issues concerning compliance with probation conditions. During this period, Respondent must appear before the State Bar Court as required by the court or by the Office of Probation after written notice mailed to Respondent's official membership address, as provided above. Subject to the assertion of applicable privileges, Respondent must fully, promptly, and truthfully answer any inquiries by the court and must provide any other information the court requests.
- (6) **Quarterly and Final Reports:**
- a. **Deadlines for Reports.** Respondent must submit written quarterly reports to the Office of Probation no later than each January 10 (covering October 1 through December 31 of the prior year), April 10 (covering January 1 through March 31), July 10 (covering April 1 through June 30), and October 10 (covering July 1 through September 30) within the period of probation. If the first report would cover less than 30 days, that report must be submitted on the next quarter date and cover the extended deadline. In addition to all quarterly reports, Respondent must submit a final report no earlier than ten (10) days before the last day of the probation period and no later than the last day of the probation period.
- b. **Contents of Reports.** Respondent must answer, under penalty of perjury, all inquiries contained in the quarterly report form provided by the Office of Probation, including stating whether Respondent has complied with the State Bar Act and the Rules of Professional Conduct during the applicable quarter or period. All reports must be: (1) submitted on the form provided by the Office of Probation; (2) signed and dated after the completion of the period for which the report is being submitted (except for the final report); (3) filled out completely and signed under penalty of perjury; and (4) submitted to the Office of Probation on or before each report's due date.
- c. **Submission of Reports.** All reports must be submitted by: (1) fax or email to the Office of Probation; (2) personal delivery to the Office of Probation; (3) certified mail, return receipt requested, to the Office of Probation (postmarked on or before the due date); or (4) other tracked-service provider, such as Federal Express or United Parcel Service, etc. (physically delivered to such provider on or before the due date).
- d. **Proof of Compliance.** Respondent is directed to maintain proof of Respondent's compliance with the above requirements for each such report for a minimum of one year after either the period of probation or the period of Respondent's actual suspension has ended, whichever is longer. Respondent is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.
- (7) **State Bar Ethics School:** Within one year after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must submit to the Office of Probation satisfactory evidence of completion of the State Bar Ethics School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and Respondent will not receive MCLE credit for attending this session. If Respondent provides satisfactory evidence of completion of the Ethics School after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.

- (8) **State Bar Ethics School Not Recommended:** It is not recommended that Respondent be ordered to attend the State Bar Ethics School because
- (9) **State Bar Client Trust Accounting School:** Within one year after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must submit to the Office of Probation satisfactory evidence of completion of the State Bar Client Trust Accounting School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and Respondent will not receive MCLE credit for attending this session. If Respondent provides satisfactory evidence of completion of the Client Trust Accounting School after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.
- (10) **Minimum Continuing Legal Education (MCLE) Courses – California Legal Ethics [Alternative to State Bar Ethics School for Out-of-State Residents]:** Because Respondent resides outside of California, within _____ after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must either submit to the Office of Probation satisfactory evidence of completion of the State Bar Ethics School and passage of the test given at the end of that session or, in the alternative, complete _____ hours of California Minimum Continuing Legal Education-approved participatory activity in California legal ethics and provide proof of such completion to the Office of Probation. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for this activity. If Respondent provides satisfactory evidence of completion of the Ethics School or the hours of legal education described above, completed after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.
- (11) **Criminal Probation:** Respondent must comply with all probation conditions imposed in the underlying criminal matter and must report such compliance under penalty of perjury in all quarterly and final reports submitted to the Office of Probation covering any portion of the period of the criminal probation. In each quarterly and final report, if Respondent has an assigned criminal probation officer, Respondent must provide the name and current contact information for that criminal probation officer. If the criminal probation was successfully completed during the period covered by a quarterly or final report, that fact must be reported by Respondent in such report and satisfactory evidence of such fact must be provided with it. If, at any time before or during the period of probation, Respondent's criminal probation is revoked, Respondent is sanctioned by the criminal court, or Respondent's status is otherwise changed due to any alleged violation of the criminal probation conditions by Respondent, Respondent must submit the criminal court records regarding any such action with Respondent's next quarterly or final report.
- (12) **Minimum Continuing Legal Education (MCLE):** Within _____ after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must complete _____ hour(s) of California Minimum Continuing Legal Education-approved participatory activity in SELECT ONE _____ and must provide proof of such completion to the Office of Probation. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for this activity. If Respondent provides satisfactory evidence of completion of the hours of legal education described above, completed after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.
- (13) **Other:** Respondent must also comply with the following additional conditions of probation:
- (14) **Proof of Compliance with Rule 9.20 Obligations:** Respondent is directed to maintain, for a minimum of one year after commencement of probation, proof of compliance with the Supreme Court's order that Respondent comply with the requirements of California Rules of Court, rule 9.20, subdivisions (a) and (c). Such proof must include: the names and addresses of all individuals and entities to whom Respondent sent notification pursuant to rule 9.20; a copy of each notification letter sent to each recipient; the original receipt or postal authority tracking document for each notification sent; the originals of all returned receipts

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and notifications of non-delivery; and a copy of the completed compliance affidavit filed by Respondent with the State Bar Court. Respondent is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.

(15) **The following conditions are attached hereto and incorporated:**

- Financial Conditions Medical Conditions
 Substance Abuse Conditions

The period of probation will commence on the effective date of the Supreme Court order imposing discipline in this matter. At the expiration of the probation period, if Respondent has complied with all conditions of probation, the period of stayed suspension will be satisfied and that suspension will be terminated.

E. Other Requirements Negotiated by the Parties (Not Probation Conditions):

- (1) **Multistate Professional Responsibility Examination Within One Year:** Respondent must take and pass the Multistate Professional Responsibility Examination administered by the National Conference of Bar Examiners within one year after the effective date of the Supreme Court order imposing discipline in this matter and to provide satisfactory proof of such passage to the State Bar's Office of Probation within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).) If Respondent provides satisfactory evidence of the taking and passage of the above examination after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this requirement.
- (2) **Multistate Professional Responsibility Examination Requirement Not Recommended:** It is not recommended that Respondent be ordered to take and pass the Multistate Professional Responsibility Examination because
- (3) **Other Requirements:** It is further recommended that Respondent be ordered to comply with the following additional requirements:

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In the Matter of: TRISHA DANIELLE FIGUEROA aka TRISHA DANIELLE MAUER	Case Number(s): 17-C-07050-LMA
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Substance Abuse Conditions

- a. **Abstinence:** Respondent must abstain from using alcoholic beverages and must not use or possess any illegal drugs or illegal drug paraphernalia. In each quarterly and final report, Respondent must report compliance with this condition.
- b. **Abstinence Program Meetings:** Respondent must attend a minimum of **four** meetings per **month** of an abstinence-based self-help group approved by the Office of Probation. Programs that are not abstinence-based and allow the participant to continue consuming alcohol are not acceptable. Respondent must contact the Office of Probation and obtain written approval for the program Respondent wishes to select prior to receiving credit for compliance with this condition for attending meetings of such group. Respondent must provide to the Office of Probation satisfactory proof of attendance at such group meetings with each quarterly and final report; however, in providing such proof, Respondent may not sign as the verifier of such attendance.
- c. **Laboratory Testing:** Within 45 days after the effective date of the SELECT ONE order imposing discipline in this matter, Respondent must select a licensed medical laboratory or laboratories acceptable to the Office of Probation and having the capability to provide observed testing of Respondent as specified below. Respondent must provide a copy of this condition and of the Office of Probation Lab Test Information Sheet to each and every laboratory Respondent uses to perform any portion of the testing required to comply with this probation condition. In the event that Respondent subsequently is informed or learns that any laboratory, previously approved by the Office of Probation to conduct the testing set forth below, is no longer willing or able to perform such testing in the manner set forth below, Respondent must (1) notify the Office of Probation in writing of that fact within 72 hours after acquiring such information, and (2) select a new licensed medical laboratory, acceptable to the Office of Probation and capable of providing observed testing of Respondent as specified below, sufficiently promptly that Respondent will be able to continue to comply timely with the testing requirements set forth below.

After the expiration of the first 60 days of Respondent's probation/reproval, Respondent must be tested monthly, at Respondent's expense, during the first five (5) days of each remaining calendar month of Respondent's probation/reproval conditions period to show that Respondent has abstained from the use of alcohol and drugs. This testing will include an ethyl glucuronide (EtG) test and a ten-panel drug test (or equivalent tests accepted and approved in advance by the Office of Probation) and for drugs and other substances specified by the Office of Probation, including but not necessarily limited to alcohol, amphetamines, methamphetamines, barbiturates, benzodiazepines, cocaine metabolite, opiates, oxycodone, marijuana, methadone, and propoxyphene. These tests must be performed by the laboratory pursuant to United States Department of Transportation guidelines, and all testing must be observed. Respondent must comply with all laboratory requirements regarding specimen collection and the integrity of specimens.

In addition to the monthly testing, the Office of Probation may require Respondent to undergo up to additional tests per month, as described above, during the period of Respondent's probation/reproval conditions period, at times selected by the Office of Probation on a random basis. During the period of probation/reproval conditions period, Respondent must maintain with the Office of Probation a current telephone number and email address at which Respondent can be reached. Such tests are to be performed by the laboratory no later than eight (8) hours after the Office of Probation's email and telephone call to Respondent that the Office of Probation requires such additional testing.

For each test, Respondent must instruct the laboratory to provide a screening report directly to the Office of Probation, at Respondent's expense, that contains an analysis of the above tests, shows that each tested

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sample was properly obtained, and demonstrates that the above testing requirements were satisfied. Failure to provide, or revocation of, such instruction for a particular required test may be deemed a failure to comply with this condition. Each screening report must be provided directly to the Office of Probation at or before the time that its results are disclosed to Respondent and within ten (10) days after the time that the tested sample is provided to the laboratory. Each report must record the date and time of the testing, list all of the substances for which Respondent was tested, and show the individual results for each such substance. An overall synopsis, e.g., "negative," with no specific breakdown, is not sufficient. In the event a previously selected and approved laboratory fails to provide the Office of Probation with test results or screening reports meeting the above requirements within two weeks of testing, the Office of Probation may require Respondent to choose a different licensed medical laboratory, approved by the Office of Probation, for future testing.

- d. **Medical Waivers:** Within 45 days after the effective date of the SELECT ONE order imposing discipline in this matter, Respondent must provide the Office of Probation with an authorization to disclose and obtain medical information (medical waiver) and access to all of Respondent's medical records related to Respondent's substance abuse problem for the period . Revocation of any medical waiver is a violation of this condition. Any medical records obtained by the Office of Probation are confidential and no information concerning them or their contents will be given to anyone except members of the Office of Probation, the Office of Chief Trial Counsel, and the State Bar Court who are directly involved with maintaining, enforcing, or adjudicating this probation/reproval condition.
- e. **Other:**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITIONS

IN THE MATTER OF: TRISHA DANIELLE FIGUEROA aka
 TRISHA DANIELLE MAUER
CASE NUMBER: 17-C-07050-LMA

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that the facts and circumstances surrounding the offenses for which he was convicted involved other misconduct warranting discipline.

Case No. 17-C-07050-LMA (Conviction Proceedings)

PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING:

1. This is a proceeding pursuant to sections 6101 and 6102 of the Business and Professions Code and rule 9.10 of the California Rules of Court.
2. On or about November 22, 2017, the Sonoma County District Attorney's office filed a misdemeanor complaint against respondent in Sonoma County Superior Court, case number SCR-710189-1, charging her with violations of Vehicle Code sections 23152(a) (DUI) and 23540 (within 10 years of offense, committed a separate violation of section 23152, resulting in a conviction), with an enhancement for blood alcohol of 0.15 percent or more, within the meaning of Vehicle Code section 23578; Vehicle Code section 23152(b) (driving with a BAC of 0.08 percent or greater) and 23540 (within 10 years of offense, committed a separate violation of section 23152, resulting in a conviction), with an enhancement for blood alcohol of 0.15 percent or more, within the meaning of Vehicle Code section 23578; and an infraction for violating probation condition of not driving with any measurable BAC.
3. On or about March 23, 2018, respondent pled guilty/nolo contendere to violating Vehicle Code section 23152(b) (driving with 0.08% or higher BAC), with an admission of violating Vehicle Code section 23540 (prior within 10 years), and an admitted enhancement of violating Vehicle Code section 23578 (driving with 0.15% or more BAC). The judge accepted the plea, entered a conviction, and sentenced respondent to 15 days in jail, to be served as work release, and 36 months' probation, with conditions including obey all laws, submit to warrantless searches and seizures, do not commit any criminal offense, refuse a BAC test, or drive with any measurable amount of alcohol, enroll and participate in Multiple Offender Drinking Driver Program for 18 months, Interlock to be installed on car for 36 months, and restitution and fine.
4. On July 6, 2018, the Review Department of the State Bar Court issued an order referring the matter to the Hearing Department for a hearing and decision recommending the discipline to be imposed in the event that the Hearing Department found that the facts and

circumstances surrounding the offenses for which respondent was convicted involved moral turpitude or other misconduct warranting discipline.

FACTS:

5. On October 27, 2017, at approximately 3:23 p.m., Santa Rosa Police Officer Garrison Swartz ("Officer Swartz") arrived upon a scene where a rear-end collision had just occurred. A silver Dodge Ram was stopped at the limit line, and a grey Lexus SUV was stopped behind it. The cars were still in the traffic lane, at the intersection of Montecito Blvd. and Mission Blvd. The driver of the Ram was standing next to the Lexus' door. Respondent, the driver of the Lexus, was still in the driver's seat. Officer Swartz instructed both drivers to move their vehicles onto the next street to get out of the roadway. He followed respondent, who drove very slowly onto Bridgewood Drive and pulled to the eastern curb line, stopped partially in the roadway.
6. Officer Swartz spoke to the driver of the Ram, who said respondent had rear-ended him when he was stopped at a light. The driver also told Officer Swartz he was concerned there was something wrong with respondent because of the way she was acting. Officer Swartz spoke to respondent who stated that the Ram suddenly stopped and she could not stop her vehicle in time. As Officer Swartz spoke to respondent he observed objective signs of intoxication. She had slow slurred speech and bloodshot watery eyes. He asked respondent how much she had to drink and she said she hadn't had anything. His background check indicated that respondent was on DUI probation, with conditions including not committing any criminal offense, not refusing a blood alcohol test, and not driving with any measurable amount of alcohol in her bloodstream.
7. Officer Swartz administered a breath test, which showed respondent's BAC to be 0.267. He asked her to step out of the vehicle. He asked her to walk to a flat portion of the sidewalk. She swayed as she walked. He asked the required questions on the DUI investigative report, which respondent answered. At this time, she admitted to drinking one glass of wine. Officer Swartz checked respondent's eyes for Horizontal Gaze Nystagmus, and noticed a lack of smooth pursuit in both eyes, Nystagmus at maximum deviation in both eyes, and Nystagmus prior to maximum deviation in both eyes. He also noticed vertical Nystagmus in both eyes.
8. Officer Swartz proceeded to administer a series of field coordination tests, to which respondent agreed. He administered the Rhomberg Test, which respondent did not close her eyes during, and in which her 30 second estimation was 25 seconds. He then explained and demonstrated the One Leg Stand Test, which respondent did not count out loud during, and her foot swayed as she held it up. He then explained and demonstrated the Walk and Turn Test. Respondent was unable to safely stand heel to toe so he did not have her perform the test. There is a body cam video with further details.
9. Due to the results of the BAC test and these field coordination tests, signs and symptoms of intoxication, and her involvement in the collision, Swartz placed respondent under arrest for 23152(a) CVC DUI, 23152 (b), CVC DUI .08+, 23154(a) CVC DUI while on DUI probation, and 1203.2 probation violation. Officer Swartz then informed respondent

of her implied consent and asked whether she would take a breath test, a blood test, both, or a refusal. She consented to give a blood sample. This was drawn by an EMT on the scene at approximately 4:26 p.m. The results of the blood BAC was 0.26.

CONCLUSIONS OF LAW:

10. The facts and circumstances surrounding the above-described conviction does not involve moral turpitude, but does involve other misconduct warranting discipline.

AGGRAVATING CIRCUMSTANCES.

Significant Harm (Std. 1.5(j)): While driving under the influence of high levels of alcohol, respondent caused a DUI-related traffic collision, where she rear-ended another car and caused property damage. Although the consequences were slight in comparison to what they might have been, they nonetheless constitute significant harm. Respondent's actions were serious and compromised the safety of others and their property.

Prior DUI: Respondent has one prior DUI, for which she was on probation when the more recent DUI occurred. In her first DUI matter, on or about September 14, 2015, respondent pled nolo contendere in Sonoma County Superior Court case number SCR667636 to a violation of Vehicle Code section 23152, subdivision (b) (driving with BAC of 0.08 percent or greater), with an enhancement under Vehicle Code section 23578 for driving with 0.15% or more BAC. In that matter, a breath test revealed that she had a .19 BAC. She was convicted of a misdemeanor, and sentenced to a conditional sentence of 36 months, with conditions including that she enroll and complete First Offender Drinking Driver Program, obey all laws, do not commit a criminal offense, refuse a blood alcohol test, or drive with any measurable amount of alcohol in her blood, restitution and fines. This DUI involved unsafe driving on the freeway, without lights, with respondent weaving back and forth in her lane.

MITIGATING CIRCUMSTANCES.

Pre-trial Stipulation: By entering into this stipulation, respondent has acknowledged her misconduct and is entitled to mitigation for recognition of wrongdoing and saving the State Bar significant resources and time. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [mitigative credit given for entering into a stipulation as to facts and culpability]; *In the Matter of Spaitth* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521 [attorney's stipulation to facts and culpability is mitigating].)

No Prior Record of Discipline: Respondent was admitted to the practice of law in California in 1999. She has no prior record of discipline. Respondent's 16-year legal career prior to her 2015 DUI conviction is entitled to significant mitigating weight. (See *Hawes v. State Bar* (1990) 51 Cal.3d 587, 596 [10 years without discipline is entitled to significant mitigation].)

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct “set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances.” (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.1. All further references to standards are to this source.) The standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See Std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

Standard 2.16(b) states: “Suspension or reproof is the presumed sanction for final conviction of a misdemeanor not involving moral turpitude but involving other misconduct warranting discipline.”

In determining whether to impose a sanction greater or less than that specified in a given standard, in addition to the factors set forth in the specific standard, consideration is to be given to the primary purposes of discipline; the balancing of all aggravating and mitigating circumstances; the type of misconduct at issue; whether the client, public, legal system or profession was harmed; and the member’s willingness and ability to conform to ethical responsibilities in the future. (Stds. 1.7(b) and (c).)

For the purpose of attorney discipline, respondent’s convictions are conclusive proof of the elements of her crimes. (See Bus. & Prof. Code, § 6101, subs. (a) & (e); *In the Matter of Posthuma* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 813, 820.) Thus, her 2018 DUI misdemeanor conviction establishes that she drove with a BAC of at least 0.08 percent (Veh. Code, § 23152, subd. (b)) with an admitted prior Vehicle Code section 23540 within 10 years (Veh. Code, § 23540), and an excessive BAC of 0.15 percent or more (Veh. Code, § 23578). Her 2015 conviction establishes that she drove with a BAC of at least 0.08 percent (Veh. Code, § 23152, subd. (b)), and an excessive BAC of 0.15 percent or more (Veh. Code, § 23578).

In the context of attorney discipline, a crime involves moral turpitude if it reflects, “a deficiency in any character trait necessary for the practice of law (such as trustworthiness, honesty, fairness, candor, and fidelity to fiduciary duties) or if it involves such a serious breach of a duty owed to another or to society, or such a flagrant disrespect for the law or for societal norms, that knowledge of the attorney’s conduct would be likely to undermine public confidence in and respect for the legal profession.” (*In re Lesansky* (2001) 25 Cal.4th 11, 16.)

Case precedent makes clear, however, that a misdemeanor DUI conviction does not involve moral turpitude per se. This applies even when an attorney has two DUI convictions. (*In re Kelley* (1990) 52 Cal.3d 487, 494 [two DUI convictions with violation of probation does not involve moral turpitude].) Nevertheless, an attorney may still be subject to licensure sanctions when “other misconduct warranting discipline” surrounds the misconduct. (*Id.* at pp. 494–495 [Supreme Court imposes discipline for misconduct not amounting to moral turpitude as exercise of its inherent power to control practice of law and to protect legal profession and public].) Although there is no evidence of moral turpitude here (misrepresentations, etc.), the two DUIs close in time, with violation of her criminal probation for the first DUI when she committed the second, and high levels of blood alcohol in each case demonstrate other misconduct warranting

discipline. Respondent suffered two misdemeanor convictions for DUI in two and a half years. Both involved excessive levels of blood alcohol. The more recent DUI involved a rear-end collision and the first involved unsafe driving on the freeway, without lights, with respondent weaving back and forth in her lane. Respondent's repeated instances of driving under the influence evidence a lack of respect for the law, as well as possible addiction issues. In *Kelley*, the Court emphasized the nexus between a DUI conviction and the practice of law where, as here, respondent's second DUI conviction constituted a violation of criminal probation, which the Court found "demonstrates a lapse of character and a disrespect for the legal system that directly relate to an attorney's fitness to practice law and serve as an officer of the court." (*In re Kelley, supra*, 52 Cal.3d 487, 495.)

Here, respondent has been previously been convicted of DUI, for which she served criminal probation and attended a DUI offender program. Yet, this has not deterred her behavior. She continued to engage in misconduct she knows poses a significant risk of harm to the public. Thus, respondent has not demonstrated that she is willing and able to abide by the law and conform to the high ethical obligations of an attorney. Accordingly, there is no basis to deviate from standard 2.16(b). Given the totality of the misconduct, the surrounding facts and circumstance, and the aggravating and mitigation factors, discipline in the mid-range of standard 2.16(b) is appropriate.

Case law is instructive. *In re Kelley, supra*, 52 Cal.3d 487, involved an attorney, with no prior record of discipline, who acquired two DUI misdemeanor convictions just a few years apart. Neither incident involved injury or property damage, but the second DUI occurred while Kelley was on probation for her first DUI. Kelley failed to acknowledge her alcohol abuse problem and made no showing of rehabilitative efforts. The Supreme Court found that Kelley did not commit acts of moral turpitude, but her lack of respect for the legal system and her apparent alcohol dependency problem warranted a public reproof with conditions, including three years' probation and referral to the State Bar's alcohol abuse program. The Court emphasized that "[Kelley's] problems, if not checked, may spill over into [her] professional practice and adversely affect her representation of clients and her practice of law." (*Id.* at p. 496.)

Here, respondent's misconduct is similar to Kelley's; however, one of respondent's DUI's involved property damage and both involved a high BAC which warranted a statutory enhancement. Respondent violated her probation from her first DUI by committing the second. Moreover, since "[t]he community's interest in prosecuting driving under the influence cases has increased dramatically" (*People v. Ford* (1992) 4 Cal.App.4th 32, 38), so too has the need to ensure that respondent's problems do not spill over into professional practice and adversely affect her practice of law. Given this, and the fact that this is respondent's second DUI, discipline greater than that imposed in *Kelley* is warranted. Accordingly, a one-year stayed suspension is an appropriate sanction that serves the primary purposes of discipline, including protection of the public and the integrity of the legal profession.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of August 15, 2018, the discipline costs in this matter are \$3,857. 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.

EXCLUSION FROM MINIMUM CONTINUING LEGAL EDUCATION (“MCLE”).

Respondent may not receive MCLE credit for completion of State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)

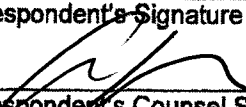
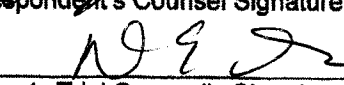
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In the Matter of:
TRISHA DANIELLE FIGUEROA aka
TRISHA DANIELLE MAUER

Case Number(s):
17-O-07050-LMA

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.

Date	Respondent's Signature	Trisha Danielle Figueroa
9-27-18		Print Name
Date	Respondent's Counsel Signature	Anthony Patrick Radogna
10-9-18		Print Name
Date	Deputy Trial Counsel's Signature	Dina E. Goldman
		Print Name

(Do not write above this line.)

In the Matter of: TRISHA DANIELLE FIGUEROA aka TRISHA DANIELLE MAUER	Case Number(s): 17-C-07050-LMA
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STAYED SUSPENSION 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.


On page 1 of the Stipulation, paragraph A.(3), line 3, "16" is deleted, and in its place is inserted "17".

On page 10 of the Stipulation, under "Facts and Conclusions of Law," line 2, "he" is deleted, and in its place is inserted "she".

In the caption at the top of both pages numbered 16, "17-O-07050-LMA" is deleted, and in its place is inserted "17-C-07050-LMA".

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 Rules Proc. of State Bar, rule 5.58(E) & (F).) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after the filed date of the Supreme Court order.** (See Cal. Rules of Court, rule 9.18(a).)

Oct 17, 2018
Date


LUCY ARMENDARIZ
Judge of the State Bar Court

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DECLARATION OF SERVICE BY MAIL

RE: FIGUEROA (aka MAUER)
CASE NO: 17-C-07050

I, the undersigned, over the age of eighteen (18) years, whose business address and place of employment is the State Bar of California, 180 Howard Street, San Francisco, California 94105, declare that I am not a party to the within action; that I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service; that in the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day; that I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit. That in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of San Francisco, on the date shown below, a true copy of the within

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

in a sealed envelope placed for collection and mailing at San Francisco, on the date shown below, addressed to:

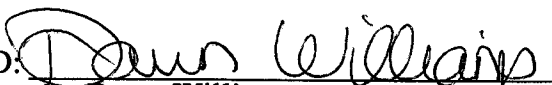
Anthony Patrick Radogna
Law Offices of Anthony Radogna
1 Park Plz Ste 600
Irvine, CA 92614-5987

in an inter-office mail facility regularly maintained by the State Bar of California addressed to:

N/A

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at San Francisco, California, on the date shown below.

DATED: October 9, 2018

SIGNED: 
Dawn Williams
Declarant

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Court Specialist 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 October 17, 2018, 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 San Francisco, California, addressed as follows:

ANTHONY P. RADOGNA
LAW OFFICES OF ANTHONY RADOGNA
1 PARK PLZ STE 600
IRVINE, CA 92614 - 5987

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

DINA E. GOLDMAN, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on October 17, 2018.



Bernadette Molina
Court Specialist
State Bar Court