


Counsel for the State Bar Cydney Batchelor, #114637 State Bar of California 180 Howard St., 7th Fl. San Francisco, CA 94105 Tele: 415/538-2204	Case number(s) PUBLIC MATTER 01-C-1598- JMR 02-0-15757 [unfiled] 01-0-3305 [unfiled] kwiktag® 022 607 437 	(for Court's use) FILED <i>LS</i> AUG 12 2003 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
Counsel for Respondent Michael E. Wine, #58657 Attorney at Law 3218 E. Holt, Ste 100 West Covina, CA 91791 Tele: 626/858-0602	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	
In the Matter of C. ELIZABETH ANDERSON Bar # 161503 A Member of the State Bar of California (Respondent)		

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted 12/14/92 (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." See attachment
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law." See attachment
- (6) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (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:
2004 and 2005
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
 - costs waived in part as set forth under "Partial Waiver of Costs"
 - costs entirely waived

Note: All information required by this form and any additional information which cannot be provided in the space provided, shall be set forth in the text component of this stipulation under specific headings, i.e. "Facts," "Dismissals," "Conclusions of Law."

B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b).] Facts supporting aggravating circumstances are required.

- (1) Prior record of discipline [see standard 1.2(f)]
- (a) State Bar Court case # of prior case _____
- (b) date prior discipline effective _____
- (c) Rules of Professional Conduct/ State Bar Act violations: _____

- (d) degree of prior discipline _____
- (e) If Respondent has two or more incidents of prior discipline, use space provided below or under "Prior Discipline".

- (2) Dishonesty: Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) Trust Violation: Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) Harm: Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) Indifference: Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) Lack of Cooperation: Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) Multiple/Pattern of Misconduct: Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. See attachment
- (8) No aggravating circumstances are involved.

Additional aggravating circumstances:

None.

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 ~~to the victims of his/her misconduct and~~ to the State Bar during disciplinary investigation and proceedings.
See attached
- (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
- (5) Restitution: Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) Delay: These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) Good Faith: Respondent acted in good faith.
- (8) Emotional/Physical Difficulties: At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) Severe Financial Stress: At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) Family Problems: At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) Good Character: Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) Rehabilitation: Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) No mitigating circumstances are involved.

Additional mitigating circumstances:

See attached

D. Discipline

1. Stayed Suspension.

A. Respondent shall be suspended from the practice of law for a period of two (2) years

- 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 to _____ [payee(s)] (or the Client Security Fund, if appropriate), in the amount of _____, plus 10% per annum accruing from _____ and provides proof thereof to the Probation Unit, Office of the Chief Trial Counsel
- iii. and until Respondent does the following: _____

B. The above-referenced suspension shall be stayed.

2. Probation.

Respondent shall be placed on probation for a period of four (4) years which shall commence upon the effective date of the Supreme Court order herein. (See rule 953, California Rules of Court.)

3. Actual Suspension.

A. Respondent shall be actually suspended from the practice of law in the State of California for a period of nine (9) 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 to _____ [payee(s)] (or the Client Security Fund, if appropriate), in the amount of _____, plus 10% per annum accruing from _____ and provides proof thereof to the Probation Unit, Office of the Chief Trial Counsel
- 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 shall 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 shall comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) Within ten (10) days of any change, Respondent shall report to the Membership Records Office of the State Bar and to the Probation Unit, 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) Respondent shall submit written quarterly reports to the Probation Unit on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, respondent shall 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. If the first report would cover less than 30 days, that report shall 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.

- (5) Respondent shall be assigned a probation monitor. Respondent shall 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 shall furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Probation Unit. Respondent shall cooperate fully with the probation monitor.
- (6) Subject to assertion of applicable privileges, Respondent shall answer fully, promptly and truthfully any inquiries of the Probation Unit of the Office of the Chief Trial Counsel 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.
- (7) Within one (1) year of the effective date of the discipline herein, respondent shall provide to the Probation Unit 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.
- (8) Respondent shall comply with all conditions of probation imposed in the underlying criminal matter and shall so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Probation Unit.
- (9) 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 |
- (10) Other conditions negotiated by the parties: See attached
- Multistate Professional Responsibility Examination: Respondent shall provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Probation Unit of the Office of the Chief Trial Counsel 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.
- Rule 955, California Rules of Court: Respondent shall comply with the provisions of subdivisions (a) and (c) of rule 955, California Rules of Court, within 30 and 40 days, respectively, from the effective date of the Supreme Court order herein.
- Conditional Rule 955, California Rules of Court: If Respondent remains actually suspended for 90 days or more, he/she shall comply with the provisions of subdivisions (a) and (c) of rule 955, California Rules of Court, within 120 and 130 days, respectively, from the effective date of the Supreme Court order herein.
- Credit for Interim Suspension [conviction referral cases only]: Respondent shall be credited for the period of his/her interim suspension toward the stipulated period of actual suspension.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: C. ELIZABETH ANDERSON

CASE NUMBER(S): 01-C-1598, ET AL.

DISMISSALS.

Pursuant to the settlement memorialized herein, the parties respectfully request the Court to dismiss case number 01-O-3305, without prejudice. As a further condition of this dismissal, Respondent hereby agrees to write to Ms. King and inform her that \$400.00 in alleged outstanding fees will be forgiven, and apologize for not appearing at the hearing date on May 7, 2001, and offer to participate in fee arbitration regarding all other outstanding fee disputes with Ms. King, within ninety days from the date she signs this stipulation. Respondent understands and agrees that her failure to write the letter of apology and forgiveness of \$400.00 in attorney's fees, or to participate in fee arbitration if Ms. King wishes to do so, may result in case number 01-O-3305 being reopened and further disciplinary action taken.

FACTS AND CONCLUSIONS OF LAW.

01-C-1598:

Facts: In April 2001, Respondent was married to a man who was incarcerated in the Solano County Jail for drug offenses. His cell mate at the time reported to law enforcement officials that Respondent had narcotics in their home. Acting on that information, criminal justice authorities obtained a search warrant for Respondent and her husband's home, and executed that warrant on April 24, 2001. As a result of the search, authorities seized approximately one-half ounce of methamphetamine, 1 tablet of ecstasy and assorted paraphernalia for the use of methamphetamine. At that time, Respondent was arrested for narcotics violations, along with a man who was a friend of her husband. On August 2, 2002, Respondent was charged with felony violations of Health and Safety Code sections 11378 [possession for sale of controlled substance: methamphetamine], 11377(a) [possession of controlled substance: ecstasy], and 11366 [maintenance of location for unlawful activities]. Respondent was also charged with a felony violation of Penal Code section 182(a)(1) [conspiracy to commit a felony violation of Health and Safety Code section 11366], and a misdemeanor violation of Business and Professions Code section 4140 [unauthorized possession of a hypodermic needle or syringe]. On the same day, Respondent accepted responsibility for her misconduct by electing not to challenge any of the criminal charges, but to enter pleas by which she accepted responsibility. Thus, Respondent entered pleas of no contest to felony violations of Penal Code section 182(a)(1) [specified as

conspiracy to use methamphetamine] and Health and Safety Code section 11366 [specified as maintenance of location for drug use]. The remaining charges, including the felony violation of Health and Safety Code section 11378 [possession for sale of methamphetamine] were dismissed. The same day (August 2, 2002), Respondent was placed on three years formal probation, on conditions including *inter alia* 180 days stayed suspension in the county jail, fines and other standard conditions.

Legal Conclusions: The facts and circumstances surrounding Respondent's violations of Penal Code section 182(a)(1) and Health and Safety Code section 11366 do not involve moral turpitude but do involve other conduct warranting discipline. The Respondent acknowledges that by the conduct described above, she willfully violated Business and Professions Code section 6068(a).

02-O-15757 (SBI)

Facts: Pursuant to the convictions memorialized above, Respondent was placed on interim suspension by an order issued by the State Bar Court Review Department effective November 3, 2002. Respondent had actual notice of the interim suspension. However, on November 13, 2002, Respondent appeared in Yolo County Superior Court with the defendant in the matter entitled *People v. Heriberto Majarro*, case number CRM 02-512, for the purpose of being present when the criminal complaint against the defendant was dismissed. At that time, Respondent failed to inform the Yolo County Court that she had been suspended from the practice of law, and that she was not appearing on the defendant's behalf.

Legal Conclusions: By willfully failing to inform the Yolo County Superior Court that she was suspended from the practice of law, and that she was not appearing on the defendant's behalf when the case against him was dismissed on November 13, 2002, Respondent employed means inconsistent with the truth in her client's case, in violation of rule 5-200(A) of the Rules of Professional Conduct.

NEXUS BETWEEN MISCONDUCT AND CHEMICAL DEPENDENCY AND MENTAL HEALTH CONDITIONS.

If called as a witness, Respondent would testify as follows regarding the nexus between the misconduct set forth above and her chemical dependency: "At the time I committed the above misconduct, I was addicted to methamphetamine, and was suffering from undiagnosed bi-polar disorder. I believe that I used the methamphetamine to self-medicate my undiagnosed mental condition. I have been clean and sober from methamphetamine and all other controlled substances, and from alcohol, since June 19, 2002."

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(6), was July 8, 2003.

PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING (01-C-1598):

1. This is a proceeding pursuant to sections 6101 and 6102 of the Business and Professions Code and rule 951 of the California Rules of Court.
2. On August 2, 2002, Respondent was convicted of violating Penal Code section 182(a)(1) [a felony] and Health and Safety Code section 11366 [a felony].
3. On March 13, 2003, the Review Department of the State Bar Court issued an order referring the matter to the Hearing Department for a hearing and decision as to whether the facts and circumstances surrounding the convictions involved moral turpitude or other misconduct warranting discipline, and if so found, the discipline to be imposed.

AGGRAVATING CIRCUMSTANCES.

Facts Supporting Aggravating Circumstances.

Multiple Acts of Misconduct: The facts admitted to herein involve multiple acts of misconduct.

Additional Aggravating Circumstances.

None

MITIGATING CIRCUMSTANCES.

Facts Supporting Mitigating Circumstances.

Candor and cooperation: Respondent has been completely candid and cooperative with the State Bar during its investigation and resolution of these cases.

Objective Steps Promptly Taken: In addition to the terms of her criminal probation, Respondent also voluntarily commenced a recovery program through the Other Bar, and also a treatment program through the Betty Ford Center. Then, as soon as the State Bar Lawyer's Assistance Program (LAP) became operational, Respondent voluntarily enrolled and has been voluntarily and fully compliant since that time. (See "Chemical Dependency Treatment" below.)

Good character: Respondent has provided the State Bar with documentary substantiation from a

number of general and legal references of her good character, including extensive pro bono work.

Additional Mitigating Circumstances.

No prior record: Although the State Bar considers the misconduct admitted to herein as serious, it is worth noting that Respondent has no prior record of discipline, since being admitted to practice in 1992.

Compliance with Criminal Probation: Respondent has complied with her probation conditions in the criminal proceedings which underlie the conviction referral here.

Marital difficulties: At the time of the offense, Respondent was married to a man who was convicted of criminal narcotics offenses. After her arrest, Respondent obtained a dissolution of that marriage, and avers that she no longer has any contact with her former husband or his friend that was arrested with her.

Chemical Dependency and Subsequent Recovery: At the time Respondent was arrested, she was addicted to methamphetamine. Soon after her arrest, she entered into a program of abstinence and recovery through a strong affiliation with the Other Bar, including attending its annual three-day meeting in April 2002. At about the same time, she began working with the LAP, and through LAP, obtained residential treatment at the Betty Ford Center from June to September 2002. While she was in residential treatment, she signed an application agreement with the LAP in July 2002. Upon her release, she met with the LAP evaluation committee in September 2002, was accepted into LAP, and signed the participation agreement in November 2002. Since that time, she has fully and completely cooperated and complied with LAP, as well as continued her affiliation with the Other Bar.

STATE BAR ETHICS SCHOOL.

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

COMPLIANCE WITH CONDITIONS OF PROBATION/PAROLE IN UNDERLYING CRIMINAL MATTER.

Respondent shall comply with all conditions of her probation and/or parole imposed in the underlying criminal matter and shall so declare under penalty of perjury in conjunction with any quarterly report required to be filed with the Probation Unit.

CALIFORNIA RULE 955 EXCLUSION.

It is not recommended that the California Supreme Court order Respondent to comply with the provisions of California Rule of Court 955 because she did so after she was placed on interim suspension in November 3, 2002. Respondent has not practiced law since that time.

OTHER CONDITIONS NEGOTIATED BY THE PARTIES.

Condition Regarding Carol Ann King: Within ninety days from signing this stipulation, as set forth above under "Dismissals," Respondent shall write to Ms. King and therein inform her that \$400.00 in alleged unpaid fees will be forgiven, and apologize for not appearing at the hearing date on May 7, 2001, offer to participate in fee arbitration to resolve all other outstanding fee disputes with Ms. King. Respondent understands and agrees that her failure to write the letter of apology and forgiveness of \$400.00 in attorney's fees, or to participate in fee arbitration if Ms. King wishes to do so, may result in case number 01-O-3305 being reopened and further disciplinary action taken.

Participation in State Bar Lawyer's Assistance Program. As noted above, in July 2002, Respondent voluntarily entered into a participation agreement with the LAP ("the participation agreement"), which includes conditions regarding substance abuse testing, monitoring and treatment for five (5) years. Respondent shall comply with the terms of the participation agreement, as the participation agreement may be modified by Respondent and the LAP from time to time, and shall furnish satisfactory evidence of such compliance to the Probation Unit. Respondent shall include in each quarterly report required herein satisfactory evidence of all such compliance made by her during that reporting period.

7.10.03
Date

C. Elizabeth Anderson
Respondent's signature

C. ELIZABETH ANDERSON
Print name

Date

Respondent's Counsel's signature

MICHAEL E. WINE
Print name

Date

Deputy Trial Counsel's signature

CYDNEY BATCHELOR
Print name

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.

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 136(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.)

Date

Judge of the State Bar Court

ELIZABETH ANDERSON

Date

Respondent's signature

print name

7/10/03

[Handwritten Signature]

MICHAEL E. WINE
print name

Date

Deputy Trial Counsel's signature

CYDNEY BATCHELOR
print name

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Date

Judge of the State Bar Court

C. ELIZABETH ANDERSON

Date _____

Respondent's signature _____

print name _____

Date _____

Respondent's Counsel's signature _____

MICHAEL E. WINE

print name _____

7/10/03
Date _____


Deputy Trial Counsel's signature _____

CYDNEY BATCHELOR

print name _____

ORDER

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8/12/03
Date _____


Judge of the State Bar Court

CERTIFICATE OF SERVICE
[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court. 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 August 12, 2003, I deposited a true copy of the following document(s):

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

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


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

**MICHAEL E. WINE
3218 E HOLT AVE #100
WEST COVINA CA 91791**

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

CYDNEY BATCHELOR, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **August 12, 2003**.



Laine Silber
Case Administrator
State Bar Court