

1 THE STATE BAR OF CALIFORNIA
 2 OFFICE OF THE CHIEF TRIAL COUNSEL
 3 ENFORCEMENT
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 11 Los Angeles, California 90015-2299
 12 Telephone: (213) 765-1000

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JUL 26 2007

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THE STATE BAR COURT
 PILOT PROGRAM - LOS ANGELES

In the Matter of) Case Nos. 01-O-04049-RMT, et al.
)
) PARTIES' ADDENDUM TO
 12 ROBERT VICTOR MASENGA,) STIPULATION RE: FACTS AND
 13 No. 62020) CONCLUSIONS OF LAW
)
 14 A Member of the State Bar)
)
 15 _____)

16 The State Bar of California, Office of Chief Trial Counsel, through Deputy Trial Counsel
 17 Brooke A. Schafer, and Respondent, Robert V. Masenga, through counsel Erica Tabachnick,
 18 submit this Addendum to the Stipulation re: Facts and Conclusions of Law previously lodged on
 19 August 8, 2003. This Addendum relates solely to the one remaining investigation matter
 20 involving Respondent, investigation no. 03-O-3864.

I. INCORPORATION OF PRIOR STIPULATION

22 This addendum is intended to supplement the Stipulation re: Facts and Conclusions of
 23 Law in case nos. 01-O-04049 et al., which the parties lodged with the Pilot Program Court on
 24 August 8, 2003 (the "Prior Stipulation"). The Prior Stipulation is also incorporated as if fully set
 25 forth herein. Attached hereto is the parties' stipulation re: investigation no. 03-O-3864.

II. ADDITIONAL RESTITUTION CONDITION

27 As is set forth in the attached addendum, the additional investigation matter also carries
 28



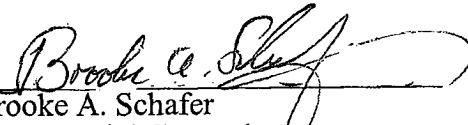
1 with it an additional restitution condition. Any order or recommendation that Respondent pay
2 restitution in these matters should include the additional restitution condition to Bette Deziel.

3 **III. ALL OTHER DISCIPLINE CONDITIONS REMAIN THE SAME**

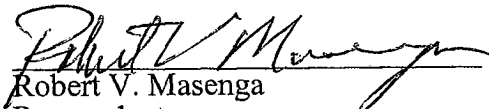
4 It is the parties' request that all other matters already submitted to the Court in these
5 matters, including matters of discipline and conditions of Pilot Program, other than those set forth
6 herein, shall remain the same.

7 Respectfully submitted,

8
9 December 23, 2003

10 
11 Brooke A. Schafer
12 Deputy Trial Counsel
13 Office of Chief Trial Counsel

14 December 19, 2003

15 
16 Robert V. Masenga
17 Respondent

18 December 22, 2003

19 
20 Erica Tabachnick
21 Counsel for Respondent

**ADDENDUM TO STIPULATED FACTS and CONCLUSIONS OF LAW
STATE BAR PILOT PROGRAM**

IN THE MATTER OF: ROBERT VICTOR MASENGA

INVESTIGATION NUMBER: 03-O-3864

The parties hereby stipulate that the following facts and conclusions of law are true:

Prior Stipulation Incorporated Herein

This addendum is intended to supplement the Stipulation re: Facts and Conclusions of Law in case nos. 01-O-04049 et al., which the parties lodged with the Pilot Program Court on August 8, 2003 (the "Prior Stipulation"). The Prior Stipulation is also incorporated as if fully set forth herein.

Investigation no. 03-O-03864

1. Respondent had set up a trust for Bette and Donald Deziel in 1988. From time to time thereafter the couple used Respondent for legal work related to estate planning.
2. On September 1, 2001, Respondent was enrolled as not entitled to practice law for his failure to comply with MCLE Rules and Regulations. On October 22, 2001, the State Bar Court ordered Respondent enrolled as an inactive member of the State Bar following a default in State Bar Case no. 00-O-11468. On June 12, 2002, the California Supreme Court issued Order no. S105641 (in State Bar Case no. 00-O-11468) requiring, among other things, that Respondent be actually suspended from the practice of law for 18 months, and until the State Bar Court grants a motion to terminate his actual suspension pursuant to State Bar Rules of Procedure. The actual suspension took effect 30 days after issuance of the Order. At all times subsequent to September 1, 2001, Respondent was not entitled to practice law, or to hold himself out as being entitled to practice law, due to inactive enrollments and/or suspension. As of September 20, 2001, Respondent had actual knowledge that he was not an active member of the State Bar subsequent to September 1, 2001.
3. In February 2002, Respondent met with the Deziels and agreed to draw up a Power of Attorney and Physician's Directive and a Fourth Amendment to the 1988 Trust. Respondent did not inform the Deziels that he was not entitled to practice law at that time, and in fact he held himself out as being entitled to practice law.
4. Donald Deziel died on September 22, 2002. Bette Deziel notified Respondent, and met with him beginning in October 2002. In November 2002 Respondent met with Ms. Deziel to draw up

the Fifth Amendment to the 1988 Trust. Respondent at no time informed Ms. Deziel that he was not entitled to practice law and in fact held himself out as being entitled to practice law. Additionally, Respondent wrote at least one letter to a third party on Ms. Deziel's behalf, using letterhead describing himself as "Attorney at Law."

5. In January 2003 Respondent mailed a billing statement for legal work performed for Ms. Deziel. The billing statement was on letterhead describing himself as "Attorney at Law." Further, Respondent billed Ms. Deziel at his regular attorney hourly rate of \$300.00 an hour, for a total of \$975.00. Ms. Deziel paid this amount to Respondent later that month.

6. In late Spring 2003 Ms. Deziel learned from an acquaintance that Respondent had not been entitled to practice law since September 2001. As a result, she sought other counsel to complete certain legal work.

Conclusion of Law

By holding himself out as being entitled to practice law in meeting with his clients in February, October and November 2002 and in January 2003; by accepting a performing legal work related to the Deziels' Trust in February 2002 and November 2002; and by billing for legal services performed at a time when he was not entitled to practice law; all while he was not entitled to practice law, Respondent practiced law while not entitled to practice law or on inactive status, in wilful violation of Business and Professions Code sections 6068(a), 6125 and 6126.

RESTITUTION

Respondent acknowledges that he was not entitled to bill for or accept the \$975.00 legal fees from Bette Deziel at a time when he was not entitled to practice law, and that it is appropriate to pay back Ms. Deziel that amount, plus interest from February 1, 2003. Accordingly, the parties request that any State Bar Court recommendation providing for restitution reflect this amount.

RULE 133 NOTICE OF PENDING PROCEEDINGS

Respondent was notified in writing of any pending investigations not included in this stipulation, pursuant to Rule 133(12), on December 4, 2003.

the Fifth Amendment to the 1988 Trust. Respondent at no time informed Ms. Deziel that he was not entitled to practice law and in fact held himself out as being entitled to practice law. Additionally, Respondent wrote at least one letter to a third party on Ms. Deziel's behalf, using letterhead describing himself as "Attorney at Law."

5. In January 2003 Respondent mailed a billing statement for legal work performed for Ms. Deziel. The billing statement was on letterhead describing himself as "Attorney at Law." Further, Respondent billed Ms. Deziel at his regular attorney hourly rate of \$300.00 an hour, for a total of \$975.00. Ms. Deziel paid this amount to Respondent later that month.

6. In late Spring 2003 Ms. Deziel learned from an acquaintance that Respondent had not been entitled to practice law since September 2001. As a result, she sought other counsel to complete certain legal work.

Conclusion of Law

By holding himself out as being entitled to practice law in meeting with his clients in February, October and November 2002 and in January 2003; by accepting a performing legal work related to the Deziels' Trust in February 2002 and November 2002; and by billing for legal services performed at a time when he was not entitled to practice law; all while he was not entitled to practice law, Respondent practiced law while not entitled to practice law or on inactive status, in wilful violation of Business and Professions Code sections 6068(a), 6125 and 6126.

RESTITUTION

Respondent acknowledges that he was not entitled to bill for or accept the \$975.00 legal fees from Bette Deziel at a time when he was not entitled to practice law, and that it is appropriate to pay back Ms. Deziel that amount, plus interest from February 1, 2003. Accordingly, the parties request that any State Bar Court recommendation providing for restitution reflect this amount.

RULE 133 NOTICE OF PENDING PROCEEDINGS

Respondent was notified in writing of any pending investigations not included in this stipulation, pursuant to Rule 133(12), on December 4, 2003.

~~CONFIDENTIAL~~

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PUBLIC MATTER

THE STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

~~CONFIDENTIAL~~

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In the Matter of
ROBERT V. MASENGA,
Member No. 62020,
A Member of the State Bar.

Case No. 01-O-04049-RMT
ORDER APPROVING STIPULATION

FILED

FEB 26 2007 *JK*

~~STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES~~

The stipulation as to facts and conclusions of law executed by the parties on **August 8, 2003** is approved nunc pro tunc from **January 20, 2004**, the date on which respondent **ROBERT V. MASENGA**, executed the written agreement regarding the terms and conditions of his **OR** her participation in the Pilot Program for Respondents with Substance Abuse and/or Mental Health Issues. (Rule 802(a), Rules Proc. of State Bar.)

IT IS SO ORDERED.

Dated: February 24, 2004


ROBERT M. TALCOTT
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 Los Angeles, on February 26, 2004, I deposited a true copy of the following document(s):

ORDER APPROVING STIPULATION, Lodged February 26, 2004

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 Los Angeles, California, addressed as follows:

**ERICA A. TABACHNICK
900 WILSHIRE BLVD.,#1000
LOS ANGELES, CA 90017**

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

**CHARLES MURRAY, Enforcement, Los Angeles
BROOKE SCHAFER, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **February 26, 2004.**



Tammy R. Cleaver
Case Administrator
State Bar Court