

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

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| <b>Counsel For The State Bar</b><br><br><b>Mark P. Hartman</b><br><b>Deputy Trial Counsel</b><br><b>180 Howard Street, 7th Floor</b><br><b>San Francisco, CA 94105</b><br><b>(415) 538-2558</b><br><br><b>Bar # 114925</b> | <b>Case Number (s)</b><br><br><b>02-O-12150</b><br><b>02-O-12175</b>   | <b>(for Court's use)</b><br><br><b>NOT FOR PUBLICATION</b><br><br><b>FILED</b> <i>LS</i><br><br><b>MAY 15 2009</b><br><br><b>STATE BAR COURT CLERK'S OFFICE</b><br><b>SAN FRANCISCO</b> |
| <b>In Pro Per Respondent</b><br><br><b>Mary Anne Nagy</b><br><b>110 Mayview Avenue</b><br><b>Cheshire, CT 06410</b><br><b>(203) 439-1053</b><br><br><b>Bar # 171942</b>  | <b>PUBLIC MATTER</b>   |   |
| <b>In the Matter Of:</b><br><br><b>MARY ANNE NAGY</b><br><br><br><br><b>Bar # 171942</b><br><br><b>A Member of the State Bar of California</b><br><b>(Respondent)</b>  | <b>Submitted to: Assigned Judge</b><br><br><b>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND</b><br><b>DISPOSITION AND ORDER APPROVING</b><br><br><b>PRIVATE REPROVAL</b><br><br><input type="checkbox"/> <b>PREVIOUS STIPULATION REJECTED</b> |   |

**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 1, 1994**.
- (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 **11** 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."
- (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):
- ☒ costs added to membership fee for calendar year following effective date of discipline (public reproof)
  - ☐ case ineligible for costs (private reproof)
  - ☐ costs to be paid in equal amounts for the following membership years:  
(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
- (9) The parties understand that:
- (a) ☐ A private reproof imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
  - (b) ☒ A private reproof imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
  - (c) ☐ A public reproof imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

**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 a separate attachment entitled "Prior Discipline."
- (2) ☐ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.

- (3) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) ☐ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (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 page 10.**
- (8) ☐ **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

**C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.**

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) ☐ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) ☐ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$            on            in restitution to            without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted in good faith.
- (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:**

**D. Discipline:**

- (1) ☒ **Private reproof (check applicable conditions, if any, below)**
- (a) ☐ Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).
- (b) ☒ Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).

or

- (2) ☐ **Public reproof (Check applicable conditions, if any, below)**

**E. Conditions Attached to Reproval:**

- (1) ☒ Respondent must comply with the conditions attached to the reproof for a period of **one year**.
- (2) ☒ During the condition period attached to the reproof, 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 condition period attached to the reproof. 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 the reproof during the preceding calendar quarter. Respondent must also state in each report 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 (thirty) days, that report must be submitted on the next following 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 condition period and no later than the last day of the condition period.

- (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 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 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 conditions attached to the reprobation.
- (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: .
- (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) ☒ 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 within one year of the effective date of the reprobation.
- ☐ No MPRE recommended. Reason: .
- (11) ☐ 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:**

**ATTACHMENT TO STIPULATION RE FACTS,  
CONCLUSIONS OF LAW, AND DISCIPLINE**

In the Matter of:                   **Mary Anne Nagy**  
Membership No.:                   **17194235816**  
State Bar Case Nos.:           **02-O-12150**  
  **02-O-12175**

**FACTS AND CONCLUSIONS OF LAW**

Respondent admits that the following facts and conclusions of law are true:

**COUNT ONE**

Case No. 02-O-12150 [02-O-12175]

Business and Professions Code, section 6068(l)  
[Failure to Comply with Agreement in Lieu of Discipline]

1. Respondent wilfully violated Business and Professions Code, section 6068(l), by failing to keep all agreements made in lieu of disciplinary prosecution with the agency charged with attorney discipline, as follows:
2. At all times mentioned, the State Bar of California was the agency charged with attorney discipline.
3. On or about June 22, 2005, respondent entered an agreement in lieu of discipline (ALD) with the State Bar of California pursuant to Business and Professions Code sections 6068(l) and 6092.5(i).
4. The ALD provided that it would "...remain in effect until May 1, 2007, or until Respondent completes her State Bar Lawyer Assistance Program participation plan, whichever first occurs." Respondent never completed her State Bar Lawyer Assistance Program participation. Therefore, the ALD remains in effect to this day.
5. **Failure to Comply with Quarterly Reporting Obligation.**
  - (a) In the ALD, respondent agreed to comply with the following requirement:  
"That during the effective period of this ALD, Respondent shall report not later than January 10, April 10, July 10 and October 10 of each year or part thereof during which the conditions of this agreement are in effect, in writing, to the Probation Unit, Office of the Chief Trial Counsel, Los Angeles, which report shall state that it covers the preceding calendar quarter or applicable portion thereof, certifying by affidavit or

under penalty of perjury (provided, however, that if the effective date of this agreement is less than thirty (30) days preceding any of said dates, Respondent shall file said report on the due date next following the due date after said effective date):

- “(a) in Respondent's first report, that Respondent has complied with all provisions of the State Bar Act and Rules of Professional Conduct and the Lawyers Assistance Program since the effective date of said ALD;
- “(b) in each subsequent report that Respondent has complied with all provisions of the State Bar Act and Rules of Professional Conduct and the Lawyers Assistance Program during said period;
- “(c) provided, however, that a final report shall be filed covering the remaining portion of the effective period of this ALD following the last report required by the foregoing provisions of this paragraph certifying to the matters set forth in subparagraph (b) thereof.”

(b) Respondent violated the quarterly reporting condition by failing to file some of the required quarterly reports on time and failing to file the remaining reports at all, as follows:

| <b>Date Report Due</b> | <b>Date Report Filed</b> |
|------------------------|--------------------------|
| October 10, 2005       | December 6, 2005         |
| January 10, 2006       | January 25, 2006         |
| April 10, 2006         | April 17, 2006           |
| July 10, 2006          | Never Filed              |
| October 10, 2006       | Never Filed              |
| January 10, 2007       | Never Filed              |
| April 10, 2007         | Never Filed              |
| July 10, 2007          | Never Filed              |
| October 10, 2007       | Never Filed              |
| January 10, 2008       | Never Filed              |
| April 10, 2008         | Never Filed              |
| July 10, 2008          | Never Filed              |

| <b>Date Report Due</b> | <b>Date Report Filed</b> |
|------------------------|--------------------------|
| October 10, 2008       | Never Filed              |
| January 10, 2009       | Never Filed              |

**6. Failure to Provide Evidence of Compliance with LAP Requirement.**

(a) In the ALD, respondent agreed to comply with the following requirement:

“During the period of probation required by this ALD, Respondent shall comply with the terms of the participation plan that she signed with the State Bar’s Lawyer’s Assistance Program, as the participation plan 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.”

(b) To date, respondent has violated this condition because she has failed to submit to the Probation Unit any evidence of such LAP compliance.

7. By violating the above-quoted quarterly reporting and LAP requirements, respondent has failed to keep an agreement made in lieu of disciplinary prosecution with the agency charged with attorney discipline.

**COUNT TWO**

Case No. 02-O-12150  
Rules of Professional Conduct, rule 3-110(A)  
[Failure to Perform with Competence]

1. Respondent wilfully violated Rules of Professional Conduct, rule 3-110(A), by intentionally, recklessly, and repeatedly failing to perform legal services with competence, as follows:

2. In February 2001, upon a referral from Legal Aid, Leticia Gutierrez employed respondent to represent her in a claim brought by a homeowner’s association. Thereafter, respondent failed to perform any legal services on Ms. Gutierrez’s behalf and willfully failed to respond to Ms. Gutierrez’s numerous telephone calls seeking information about her case.

3. By failing to perform legal services for Ms. Gutierrez, respondent intentionally, recklessly, and repeatedly failed to perform legal services with competence.



### COUNT THREE

Case No. 02-O-12150  
Business and Professions Code, section 6068(m)  
[Failure to Respond to Client Inquiries]

1. Respondent wilfully violated Business and Professions Code, section 6068(m) by failing to respond promptly to reasonable status inquiries of a client, as follows:
2. The allegations contained in Count Two are hereby incorporated by this reference.
3. By failing to respond to Ms. Gutierrez's numerous telephone calls seeking information about her case, respondent failed to respond promptly to reasonable status inquiries of a client.

### COUNT FOUR

Case No. 02-O-12175  
Rules of Professional Conduct, rule 3-110(A)  
[Failure to Perform with Competence]

1. Respondent wilfully violated Rules of Professional Conduct, rule 3-110(A), by intentionally, recklessly, and repeatedly failing to perform legal services with competence, as follows:
2. In February 2001, Robert Matsumoto employed respondent to represent him in a personal injury matter on a contingency fee basis. Thereafter, respondent failed to perform any legal services on Mr. Matsumoto's behalf, and failed to respond to his repeated and numerous telephone calls for information about his case.
3. By failing to perform legal services for Mr. Matsumoto, respondent intentionally, recklessly, and repeatedly failed to perform legal services with competence.

### COUNT FIVE

Case No. 02-O-12175  
Business and Professions Code, section 6068(m)  
[Failure to Respond to Client Inquiries]

1. Respondent wilfully violated Business and Professions Code, section 6068(m) by failing to respond promptly to reasonable status inquiries of a client, as follows:
2. The allegations contained in Count Four are hereby incorporated by this reference.
3. By failing to respond to Mr. Matsumoto's numerous telephone calls seeking information about her case, respondent failed to respond promptly to reasonable status inquiries of a client.

## **SUPPORTING AUTHORITY**

Pursuant to standard 2.4(b), culpability of willfully failing to perform services or of willfully failing to communicate with a client shall result in reproof or suspension depending upon the extent of the misconduct and the degree of harm to the client. Because the extent of the misconduct and the degree of harm to the clients were limited in the current cases, a private reproof is appropriate

## **DATE OF DISCLOSURE OF ANY PENDING INVESTIGATION OR PROCEEDING**

On April 23, 2009, the State Bar sent a disclosure letter by e-mail to respondent. In this letter, the State Bar advised him of any pending investigations or proceedings against him.

## **AGGRAVATING CIRCUMSTANCE**



Respondent committed multiple acts of misconduct.

|   |  |
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| <p>In the Matter of</p> <p><b>MAR ANNE NAGY,</b></p> <p><b>A Member of the State Bar.</b></p> | <p>Case number(s):</p> <p><b>02-O-12150</b></p> <p><b>02-O-12175</b></p> |
|---|--|

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 and Conclusions of Law.

If the Respondent is not accepted into the Program or does not sign the Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

If the Respondent is accepted into the Program, upon Respondent's successful completion of or termination from the Program, this Stipulation will be filed and the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Statement Re: Discipline shall be imposed or recommended to the Supreme Court.

|                        |  |                                     |
|------------------------|--|-------------------------------------|
| <u>4/29/09</u><br>Date | <u></u><br>Respondent's Signature           | <u>Mary Anne Nagy</u><br>Print Name |
| <u> </u><br>Date       | <u> </u><br>Respondent's Counsel Signature   | <u> </u><br>Print Name              |
| <u>5/4/09</u><br>Date  | <u></u><br>Deputy Trial Counsel's Signature | <u>Mark Hartman</u><br>Print Name   |

(Do not write above this line.)

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|--|---|
| In the Matter Of<br><b>MARY ANNE NAGY,</b><br>No. 171942,<br><br><b>A Member of the State Bar.</b> | Case Number(s):<br><b>02-O-12150</b><br><b>02-O-12175</b> |
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### ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproval, 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 REPROVAL IMPOSED.
- ☒ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- ☐ All court dates in the Hearing Department are vacated.

Box 8 should not be checked.

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 125(b), Rules of Procedure.) **Otherwise the stipulation shall be effective 15 days after service of this order.**

**Failure to comply with any conditions attached to this reproval may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.**

Date

May 15, 2009

Judge of the State Bar Court

Lucy Armenta

## 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 San Francisco, on May 15, 2009, 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:

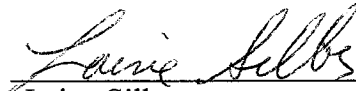
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

MARY ANNE M. NAGY  
110 MAYVIEW AVE  
CHESHIRE, CT 06410

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

MARK HARTMAN, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on May 15, 2009.

  
\_\_\_\_\_  
Laine Silber  
Case Administrator  
State Bar Court