

<p>Counsel for the State Bar</p> <p>Erin McKeown Joyce, No. 149946  The State Bar of California  Office of the Chief Trial Counsel  1149 South Hill Street  Los Angeles, California 90015  Telephone No: (213) 765-1356</p>	<p>Case number(s)</p> <p>03-N-03693-JMR</p> <p>kwiktag® 035 115 283</p> 	<p>(for Court's use)</p> <p><b>PUBLIC MATTER</b></p> <p><b>FILED</b> <i>[Signature]</i></p> <p>JAN 08 2004</p> <p>STATE BAR COURT CLERK'S OFFICE  SAN FRANCISCO</p>
<p>Counsel for Respondent</p> <p>Marianne Elizabeth Shadduck  California State Bar No. 145961  305 Waterford Court  Cranberry Twp., PA 16066  Telephone No: (724) 316-2618</p>	<p>Submitted to <input checked="" type="checkbox"/> assigned judge <input type="checkbox"/> settlement judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION  AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of</p> <p>Marianne Elizabeth Shadduck</p> <p>Bar # 145961</p> <p>A Member of the State Bar of California  (Respondent)</p>		

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted March 28, 1990 (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 9 pages.
- (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) 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:  
2005 & 2006  
(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 Sc.ctions 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 01-0-3272

(b)  date prior discipline effective April 2, 2003

(c)  Rules of Professional Conduct/ State Bar Act violations: B&P Code Section 6068(m)

RPC 3-700 (A) (2); B&P Code Section 6068(j)

(d)  degree of prior discipline 30 days actual suspension.

(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.

(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 to 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. Stayed Suspension.

A. Respondent shall be suspended from the practice of law for a period of eighteen (18) 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: \_\_\_\_\_

B. The above-referenced suspension shall be stayed.

2. Probation.

Respondent shall be placed on probation for a period of two (2) 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 sixty (60) days

- 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. 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 stipulation attachment**
- 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:        MARIANNE ELIZABETH SHADDUCK

CASE NUMBER(S):        03-N-03693

**FACTS AND CONCLUSIONS OF LAW.**

The parties to this stipulation, Respondent Marianne Elizabeth Shadduck, and the State Bar of California, through Deputy Trial Counsel Erin Joyce, stipulate and agree to the following facts and conclusions of law:

**Case No. 03-N-03693**  
**Business and Professions Code, section 6103**  
**[Failure to Obey a Court Order]**

Respondent wilfully violated Business and Professions Code section 6103 by wilfully disobeying or violating an order of the court requiring her to do or forbear an act connected with or in the course of Respondent's profession which she ought in good faith to do or forbear, as follows:

On March 3, 2003, the California Supreme Court filed disciplinary Order No. S111898 (hereinafter "955 Order") in State Bar case no. 01-O-03272. The 955 Order included a requirement that Respondent comply with Rule 955, California Rules of Court, by performing the acts specified in subdivisions (a) and (c) if Respondent was suspended for ninety days or more, or within 120 and 130 days, respectively, after the effective date of the Supreme Court Order. A true and correct copy of the 955 Order is attached hereto as Exhibit 1.

Specifically, the 955 Order required Respondent to comply with Rule 955(a) by notifying all clients and any co-counsel of her suspension, delivering to all clients any papers or other property to which the clients are entitled, refunding any unearned attorney fees, notifying opposing counsel and adverse parties of her suspension and filing a copy of said notice with the court, agency, or tribunal before which the litigation is pending. Respondent was further required to comply with Rule 955(c) by filing with the Clerk of the State Bar Court an affidavit showing that she fully complied with those provisions of the order entered pursuant to Rule 955.

The Supreme Court Order became effective on April 2, 2003, thirty days after the 955 Order was entered. Thus, Respondent was ordered to comply with subdivision (a) of Rule 955 of the California Rules of Court no later than on or about July 31, 2003, and was ordered to comply with subdivision (c) of Rule 955 no later than on or about August 10, 2003.

On or about March 3, 2003, the Clerk of the Supreme Court of the State of California properly served upon Respondent a copy of the 955 Order.

On or about March 26, 2003, Eddie Esqueda, Probation Deputy, Probation Unit of the Office of the Chief Trial Counsel of the State Bar of California, wrote a letter to Respondent. In the letter, among other things, Mr. Esqueda reminded Respondent that she was ordered to comply with rule 955, California Rules of Court, and must file her affidavit no later than August 10, 2003. Mr. Esqueda enclosed several documents with the letter, including a true and correct copy of the 955 Order, a Rule 955 Compliance Declaration form, and copies of Rules 580 and 581 of the Rules of Procedure of the State Bar of California. The letter and enclosures, which were sent as a courtesy to Respondent, were placed in a sealed envelope correctly addressed to Respondent at her State Bar of California membership address. The letter and enclosures were properly mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business. The United States Postal Service returned said letter as undeliverable.

## **AUTHORITIES SUPPORTING DISCIPLINE**

### **STANDARDS FOR ATTORNEY SANCTIONS**

Pursuant to Standard 1.3 of the Standards for Attorney Sanctions for Professional Misconduct:

The primary purposes of disciplinary proceedings conducted by the State Bar of California and of sanctions imposed upon a finding or acknowledgment of a member's professional misconduct are the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the protection of public confidence in the legal profession.

## **OTHER CONDITIONS NEGOTIATED BY THE PARTIES.**

Respondent shall successfully complete six (6) hours of participatory continuing legal education courses in legal ethics above those required for his license and provide proof of completion within one (1) year of the effective date of the disciplinary order imposed as a result

of this stipulation re facts, conclusions of law and disposition to the Probation Unit of the State Bar of California.

**PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A.(6), was December 4, 2003.

Date 12/10/03

[Signature]  
Respondent's signature

MARIANNE ELIZABETH SHADDUCK  
print name

Date \_\_\_\_\_

Respondent's Counsel's signature \_\_\_\_\_

print name \_\_\_\_\_

Date 12-15-03

[Signature]  
Deputy Trial Counsel's signature

ERIN McKEOWN JOYCE  
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.

*See attached Modifications.*

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 135(b), Rules of Procedure.) The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 953(a), California Rules of Court.)

Date 1/8/04

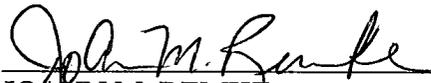
[Signature]  
Judge of the State Bar Court

**IN THE MATTER OF MARIANNE E. SHADDUCK**  
**State Bar Court Case No. 03-N-03693**

COURT'S MODIFICATIONS TO STIPULATED FACTS,  
CONCLUSIONS OF LAW AND DISPOSITION

1. On page 4, section E(2), an "x" shall be inserted in the box indicating that during the period of probation, Respondent shall comply with the provisions of the State Bar Act and Rules of Professional Conduct.
2. On page 5, the "x" shall be deleted from the box indicating that Respondent shall provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"). Respondent was ordered to take the MPRE pursuant to the Supreme Court Order in Case No. S111898 (State Bar Court Case No. 01-O-03272) filed on March 3, 2003, within one year after the effective date of that order or during the period of her actual suspension, whichever is longer.
3. On page 6, under the "Facts and Conclusions of Law," the last sentence of the second paragraph of the facts, which states "A true and correct copy of the 955 Order is attached hereto as Exhibit 1," shall be deleted. A copy of the order is not attached.
4. On page 7, under the "Facts and Conclusions of Law," in the first paragraph, between the first and second sentence, the following sentence shall be inserted: "Respondent remained actually suspended pursuant to the Supreme Court Order for more than 90 days."
5. On page 7, under the "Facts and Conclusions of Law," after the third paragraph, the following new paragraph shall be inserted: "Respondent filed her declaration pursuant to rule 995(c) of the California Rules of Court on November 14, 2003. In her declaration, Respondent stated that as of the date upon which the order to comply with rule 955 was filed, she had no clients, had no papers or other property to which clients were entitled, had earned all fees paid to her, and did not represent any clients in pending matters."
6. Pursuant to the Supreme Court Order in Case No. S111898 (State Bar Court Case No. 01-O-03272), Respondent remains actually suspended until the State Bar Court grants a motion to terminate her actual suspension pursuant to rule 205 of the Rules of Procedure of the State Bar. If Respondent remains actually suspended for two years or more pursuant to the Supreme Court Order in Case No. S111898, she shall remain actually suspended until she provides proof to the satisfaction of the State Bar Court of her rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct. These requirements remain effective and are not modified by this Stipulation or order.

Dated: January 8, 2004

  
\_\_\_\_\_  
JOANN M. REMKE  
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 January 8, 2004, 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:

**MARIANNE E. SHADDUCK  
305 WATERFORD CT  
CRANBERRY TOWNSHIP PA 16066 3925**

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

**ERIN M. JOYCE, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **January 8, 2004.**



**Bernadette C. O. Molina**

Case Administrator

State Bar Court