



ORIGINAL

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State Bar Court of California		
Hearing Department	<input checked="" type="checkbox"/> Los Angeles	<input type="checkbox"/> San Francisco
Counsel for the State Bar FUMIKO KIMURA DEPUTY TRIAL COUNSEL 1149 South Hill Street Los Angeles, CA 90015-2299 Telephone: (213) 765-1380 Bar # 208763	Case number(s) 04-0-11523-RAH; 04-0-15844 [Investigation matter]	(for Court's use) <div style="text-align: center;"> FILED <i>(MDS)</i> SEP 15 2005 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
<input type="checkbox"/> Counsel for Respondent <input checked="" type="checkbox"/> In Pro Per, Respondent AFTAB A. MALIK 433 North Camden Dr. Ste.600 Beverly Hills, CA 90210-4410 Bar # 171926	<div style="text-align: center; font-size: 2em; opacity: 0.5;">PUBLIC MATTER</div>	
In the Matter of AFTAB A. MALIK Bar # 171926 A Member of the State Bar of California (Respondent)	Submitted to <input type="checkbox"/> assigned judge <input checked="" type="checkbox"/> settlement judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING REPROVAL <input type="checkbox"/> PRIVATE <input checked="" type="checkbox"/> PUBLIC <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

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
(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 12 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) 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.

(Do not write above this line.)

(8) **Payment of Disciplinary Costs**—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):

- (a) ☐ costs added to membership fee for calendar year following effective date of discipline (public reproof)
- (b) ☐ case ineligible for costs (private reproof)
- (c) ☒ costs to be paid in equal amounts for the following membership years:
2006; 2007; 2008
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
- (d) ☐ costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
- (e) ☐ 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 _____

(Do not write above this line.)

- (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.
- (8) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances:

Respondent did not begin participating until after the Notice of Disciplinary Charges was filed in 04-0-11523, et al.

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. (10 years of practice without any discipline when the misconduct occurred.)
- (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.

(Do not write above this line.)

- (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:

(Do not write above this line.)

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 Reproof:

- (1) ☒ Respondent must comply with the conditions attached to the reproof for a period of One (1) 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 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 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 thirty (30) 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 quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the monitor.

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- (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 of the Ethics School and passage of the test given at the end of that session.
- ☐ No Ethics School ordered. 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 required 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.
- Not required in this case for the protection of
- ☒ No MPRE ordered. Reason: the public. See In the matter of Respondent G
(Review Dept. 1992), 2 Cal. St. Bar Ct. Rptr. 181.
- (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 DISPOSITION

IN THE MATTER OF: Aftab Alam Malik

CASE NUMBER: 04-O-11523-RAH; 04-O-15844 [Investigation Matter]

FACTS AND CONCLUSIONS OF LAW

Aftab Alam Malik ("Respondent") admits that the following facts are true and that he is culpable of violations of the specified statutes and /or Rules of Professional Conduct:

Respondent was admitted to the practice of law in the State of California on December 1, 1994, and was a member at all times pertinent to these charges.

04-O-11523-RAH

Facts

On or about April 9, 2004, the State Bar opened an investigation, case number 04-O-11523, pursuant to a complaint filed by Chad Brown ("the Brown matter").

On or about April 20, 2004 and May 10, 2004, State Bar Investigator Celeste Pasillas wrote to Respondent regarding the Brown matter. The investigator's letters were placed in sealed envelopes correctly addressed to Respondent at his State Bar membership records address at the time, 10440 Pioneer Blvd. #6B, Santa Fe Springs, CA 90670-8240. The letters 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 did not return the investigator's letters as undeliverable or for any other reason.

The investigator's letters requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Brown matter. Respondent did not respond to the investigator's letters or otherwise communicate with the investigator.

Conclusions of Law

By not providing a written response to the allegations in the Brown matter or otherwise

cooperating in the investigation of the Brown matter, Respondent failed to cooperate in a disciplinary investigation in wilful violation of Business and Professions Code, section 6068(i).

DISMISSALS

The parties respectfully request the Court to dismiss the following alleged violations in the interest of justice:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
04-O-11523	One	RPC 3-110(A)
04-O-11950	Three	RPC 3-110(A)
04-O-11950	Four	RPC 3-700(D)(2)
04-O-11950	Five	B&PC 6068(i)

04-O-15844 [Investigation Matter]

Facts

On August 20, 2004, the Honorable William J. Elfving, of the Superior Court of California, County of Santa Clara presiding in the matter of *Spire v. Creative Artist Network, Inc., et al.*, case number 1-01-CV-797121, signed an order setting aside and vacating the defaults and default judgments entered against Defendants Creative Artists Network, Inc., A Creative Day, Inc., and Sason Parandian. In the order, the civil court ordered Respondent to pay the sanctions to the Plaintiff in the amount of \$4,535.67. The Plaintiff's counsel served this order upon Respondent at his official membership records address by first class mail and by facsimile, and the proof of service was filed with the civil court on August 24, 2004.

Thereafter, the Plaintiff's counsel prepared a notice of entry of order and served it upon Respondent by first class mail, at his official membership records address on August 25, 2004, which was filed with the civil court on August 27, 2004. However, Respondent did not pay the sanctions to the Plaintiff until July 2005, which was shortly after Respondent communicated with the State Bar and was told to comply with the civil court's order and pay the sanctions.

Respondent failed to report the sanctions to the State Bar. The State Bar communicated with Respondent and informed him that he had a duty to report the sanctions to the State Bar pursuant to the Business and Professions Code, section 6068(o)(3). However, Respondent did not report the sanctions to the State Bar.

Conclusions of Law

By failing to report to the State Bar in writing within 30 days of the time Respondent had knowledge of the imposition of the court-ordered sanctions against Respondent, Respondent wilfully violated the Business and Professions Code, section 6068(o)(3).

WAIVER OF ISSUANCE OF NOTICE OF DISCIPLINARY CHARGES

It is agreed by the parties that the investigative matter designated as case number 04-O-15844 shall be incorporated into the within stipulation. The parties waive the issuance of a Notice of Disciplinary Charges and the right to a formal hearing and any other procedure necessary with respect to this investigative matter in order to accomplish the objectives of this stipulation.

PENDING PROCEEDINGS

The disclosure date referred to, on page one, paragraph A (6), was September 12, 2005.

COSTS OF DISCIPLINARY PROCEEDINGS

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of September 12, 2005, the estimated prosecution costs in this matter are approximately \$4,273.00. 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.

AUTHORITIES SUPPORTING DISCIPLINE

Standards for Attorney Sanctions for Professional Misconduct, Title IV of the Rules of Procedure of the State Bar of California ("Standard")

Standard 1.3 states that 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 preservation of public confidence in the legal profession. Rehabilitation of a member is a permissible object of a sanction imposed upon the member but only if the imposition of rehabilitative sanctions is consistent with the above-stated primary purposes of sanctions for professional misconduct.

Standard 2.6(a) states that a violation of the Business and Professions Code, section 6068 shall

result in disbarment or suspension depending on the gravity of the offense or the harm to the victim.

Case Law

In *In the Matter of Respondent Y* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 862, the respondent was found culpable of violating sections 6103 and 6068(o)(3) of the Business and Professions Code for failing to comply with the court order to pay the \$1,000.00 sanctions and failing to report the sanctions to the State Bar respectively. The respondent received a private reproof and was ordered to attend the State Bar's Ethics School and take a professional responsibility examination.

(Do not write above this line.)

In the Matter of AFTAB A. MALIK	Case number(s): 04-0-11523-RAH, 04-0-15844 [Investigation matter]
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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.

9-12-2005
Date


Respondent's signature

AFTAB A. MALIK
Print name

~~9-12-2005~~
Date

Respondent's Counsel's signature

Print name

9-12-2005
Date


Deputy Trial Counsel's signature

FUMIKO KIMURA
Print name

(Do not write above this line.)

In the Matter of AFTAB A. MALIK	Case number(s): 04-O-11523-RAH, 04-O-15844 {INVESTIGATION MATTER}
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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 Hearing dates are vacated.

Page 2, (8) (c) is modified to read: 2007; 2008; 2009

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.) **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.

09/13/05
Date


RICHARD A. PLATEL
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 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 Los Angeles, on September 15, 2005, 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 Los Angeles, California, addressed as follows:

**AFTAB A MALIK
ATTORNEY AT LAW
433 N CAMDEN DR STE 600
BEVERLY HILLS, CA 90210 4410**

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

Fumiko Kimura, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **September 15, 2005**.



Milagro del R. Salmeron
Case Administrator
State Bar Court