

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

PROGRAM FOR RESPONDENTS WITH SUBSTANCE ABUSE OR MENTAL HEALTH ISSUES

<p>Counsel For The State Bar</p> <p>Cydney Batchelor Deputy Trial Counsel 180 Howard St., 7th Fl. San Francisco, CA 94105</p> <p>Bar # 114637</p>	<p>Case Number (s)</p> <p>05-C-05323-PEM</p> <p>FILED <i>lll</i></p> <p>MAY 11 2010</p>	<p>(for Court's use)</p> <p>CONFIDENTIAL</p> <p>LODGED</p> <p>JAN 22 2007</p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>Counsel For Respondent</p> <p>Arthur L. Margolis Margolis & Margolis LLP 2000 Riverside Dr. Los Angeles, CA 90039</p> <p>Bar # 57703</p>	<p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>	<p>Submitted to: Assigned Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>
<p>In the Matter Of:</p> <p>FRANK E. MAYO</p> <p>Bar # 42972</p> <p>A Member of the State Bar of California (Respondent)</p>		

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 January 9, 1969.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, if Respondent is not accepted into the Lawyer Assistance Program, this stipulation will be rejected and will not be binding on the Respondent or the State Bar.
- (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, except for Probation Revocation proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 6 pages, excluding 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".



(Do not write above this line.)

- (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 and will pay timely any disciplinary costs imposed in this proceeding.

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 03-O-00661
- (b) Date prior discipline effective January 19, 2005
- (c) Rules of Professional Conduct/ State Bar Act violations: Rule of Professional Conduct 3-110(A) and Business and Professions Code section 6068(m)
- (d) Degree of prior discipline Private Reproval
- (e) If Respondent has two or more incidents of prior discipline, use space provided below:
- (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:

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 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:

See attached

ATTACHMENT TO
STIPULATION RE FACTS AND CONCLUSIONS OF LAW

IN THE MATTER OF: FRANK E. MAYO

CASE NUMBER: 05-C-05323-PEM

FACTS AND CONCLUSIONS OF LAW.

Procedural Background: 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. On April 19, 2006, respondent pled guilty to four misdemeanor counts of violating California Revenue and Taxation Code section 19701(a). On June 19, 2006 and August 28, 2006, the Review Department of the State Bar issued its orders referring the matter to the Hearing Department for a hearing and decision recommending the decision to be imposed in the event that the facts and circumstances surrounding the conviction involved moral turpitude or other misconduct warranting discipline.

Facts: On December 12, 2005, respondent was charged in Santa Clara County Superior Court with four misdemeanor violations of California Revenue and Taxation Code section 19701(a) [tax evasion without intent], for failure to file his state income tax returns for the years 1999, 2000, 2001 and 2002. On April 19, 2006, respondent pled guilty to the violations as charged. As a result, respondent was placed on informal criminal probation for 3 years.

Conclusions of Law: The facts and circumstances surrounding respondent's misdemeanor violations of California Revenue and Taxation Code section 19701(a) do not involve moral turpitude, but do involve other misconduct warranting discipline. The respondent acknowledges that by the conduct described herein, he willfully violated Business and Professions Code section 6068(a).

PENDING PROCEEDINGS.

The disclosure date referred to, on page two, paragraph A.(6) was December 7, 2006.

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline: As noted on the stipulation form, respondent was privately reprovved in State Bar case number 03-O-00661, effective January 19, 2005. However, the misconduct admitted to herein predated the date the private reprovval was imposed.

Multiple acts: By failing to file his state income tax returns for the years 1999-2002, respondent engaged in multiple acts of misconduct.

MITIGATING CIRCUMSTANCES.

Facts Supporting Mitigating Circumstances:

Candor and cooperation: Respondent has been candid and cooperative with the State Bar during its resolution of this case.

Objective steps demonstrating remorse: Respondent immediately pled guilty to the tax evasion charges.

ADDITIONAL MITIGATING CIRCUMSTANCES.

Service to Legal Community: Respondent has provided the following service to the legal community: Vice President and President of the Kings County Bar Association; chair of the Solo Practice Committee of the Santa Clara County Bar Association; Man of the Year and Member of the Kings County Community Action Organization; Judge Pro Tempore of the Santa Clara County Superior Court; Volunteer Arbitrator for the Santa Clara County Superior Court; and Voluntary Discipline Referee of the State Bar of California.

Compliance with Criminal Probation: Respondent has remained in full compliance with his criminal court probation since being placed on probation in April 2006.

Participation in Lawyer's Assistance Program: On August 9, 2006, respondent voluntarily contacted the State Bar Lawyer Assistance Program. On August 18, 2006, respondent voluntarily signed a pre-enrollment evaluation plan with LAP. At the time this stipulation is being executed, he is in the process of being evaluated for long-term participation in LAP.

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In the Matter of FRANK E. MAYO	Case number(s): 05-C-05323-PEM
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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 Fact, Conclusions of Law and Disposition.

12/08/07
Date

12/12/07
Date

12/14/07
Date

Frank E. Mayo
Respondent's Signature

FRANK E. MAYO
Print Name

Arthur Margolis
Respondent's Counsel Signature

ARTHUR L. MARGOLIS
Print Name

Cydney Batchelor
Deputy Trial Counsel's Signature

CYDNEY BATCHELOR
Print Name

(Do not write above this line.)

In the Matter Of FRANK E. MAYO	Case Number(s): 05-C-05323-PEM
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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 stipulation as to facts and conclusions of law is APPROVED.
- The stipulation as to facts and conclusions of law is APPROVED AS MODIFIED as set forth below.
- All court dates in the Hearing Department are vacated.

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; or 3) Respondent is not accepted for participation in the Program or does not sign the Program Contract. (See rule 135(b) and 802(b), Rules of Procedure.)

Jan 22, 2007
Date

Pat McElroy
Judge of the State Bar Court