

PUBLIC MATTER 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 CHRISTINE SOUHRADA DEPUTY TRIAL COUNSEL 1149 South Hill Street Los Angeles, CA 90015-2299 Telephone: (213) 765-1162 Bar # 228256	Case number(s) 05-H-04910 kwiktag® 022 604 955 	(for Court's use) <div style="text-align: center; font-size: 24pt; font-weight: bold;">FILED</div> <div style="text-align: center; font-size: 18pt; font-weight: bold;">MAY 15 2006</div> <div style="text-align: center; font-weight: bold;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</div>
<input checked="" type="checkbox"/> Counsel for Respondent <input type="checkbox"/> In Pro Per, Respondent Susan L. Margolis 2000 Riverside Dr. Los Angeles, CA 90039 Bar # 104629	Submitted to <input type="checkbox"/> assigned judge <input checked="" type="checkbox"/> settlement judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of David T. Marh Bar # 206917 A Member of the State Bar of California (Respondent)		

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 June 1, 2000
(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 10 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.

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(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
- (b) costs to be paid in equal amounts prior to February 1 for the following membership years:
2007, 2008
(hardship, special circumstances or other good cause per rule 282, Rules of Procedure)
- (c) costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
- (d) costs entirely waived

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 02-0-10470
- (b) Date prior discipline effective 12/16/03
- (c) Rules of Professional Conduct/ State Bar Act violations: 3-110(A), 4-100(B)(1)
4-100(A)
- (d) Degree of prior discipline Public Reprimand
- (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.

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- (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 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) **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.

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- (10) **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.
- (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 must be suspended from the practice of law for a period of 1 year
- 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 as set forth in the Financial Conditions form attached to this Stipulation.
- iii. and until Respondent does the following: _____

The above-referenced suspension is stayed.

2. Probation.

Respondent is placed on probation for a period of 2 years, which will commence upon the effective date of the Supreme Court order herein. (See rule 953, California Rules of Court.)

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E. Additional Conditions of Probation:

- (1) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2) 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.
- (3) 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.
- (4) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. 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 probation 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 days, that report must 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 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 to the monitor 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 probation monitor.
- (6) 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 probation conditions.
- (7) 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 State Bar Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: attended ethics school within the last 2 years (on May 13, 2004).
- (8) 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.
- (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 |

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F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** 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. 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.

**** SEE PAGE 8, SECTION IV**

- No MPRE recommended. Reason: _____

- (2) Other Conditions:

Attachment to Stipulation Re Facts, Conclusions of Law and Disposition
in the Matter of David T. Marh
Case no. 05-H-04910

I. Facts

1. On November 13, 2003, Respondent entered into and executed a Stipulation as to Facts and Disposition ("Stipulation") with the State Bar of California in case no. 02-O-10470.

2. On November 25, 2003, the State Bar Court filed an Order approving the stipulation and imposing upon Respondent a public reproof with conditions ("the Order"). The Order was served upon Respondent.

3. The Order became effective December 16, 2003.

4. Pursuant to the Order, Respondent was required to comply with certain terms and conditions attached to the reproof including the following:

- a. Respondent was required to timely file quarterly reports.
- b. If Respondent possessed client funds at any time during the period covered by the quarterly report, he was required to file a certificate from Respondent and or a certified public accountant and or other financial professional attesting to his proper maintenance and handling of client trust funds.
- c. Respondent was required to take and pass the MPRE.
- d. Respondent was required to complete six hours of MCLE instruction and submit proof of completion to the probation department within two years of the effective date of the discipline.

5. Respondent subsequently filed seven of his quarterly reports late as follows:

- a. Quarterly Report due October 10, 2005, filed on October 19, 2005
- b. Quarterly Report due July 10, 2005, filed on August 16, 2005
- c. Quarterly Report due April 10, 2005, filed on April 22, 2005
- d. Quarterly Report due January 10, 2005, filed on February 2, 2005
- e. Quarterly Report due October 10, 2004, filed on November 1, 2004
- f. Quarterly Report due July 10, 2004, filed on July 16, 2004
- g. Quarterly Report due April 10, 2004, filed on June 3, 2004

6. Respondent failed to file his client trust funds reports due in July and October of 2004, until February of 2005.

7. Proof of completion of six hours of MCLE courses were due to probation by December 16, 2005; however, respondent did not file the proof of completion until March 21, 2006.

8. Respondent's final report due was due December 16, 2005, but was not filed until December 19, 2005.

9. Respondent's final client trust funds report was due December 16, 2005, but was not filed until March 20, 2006.

10. Respondent has not passed the MPRE to date, despite several attempts to do so.

II. Conclusions of Law

11. By failing to comply with the conditions of his reproof as set forth above, Respondent willfully violated California Rules of Professional Conduct, Rule 1-110.

III. Supporting Authority

12. Standard 2.9 states "Culpability of a member of a willful violation of rule 1-110, Rules of Professional Conduct, shall result in suspension."

IV. Addendum to Multistate Professional Responsibility Examination Requirement

13. Proof of passage of the MPRE within the six-month period prior to the effective date of the Supreme Court's order in this matter shall satisfy this condition.

V. Mitigation

14. Respondent cooperated with the State Bar in their investigation and in coming to a stipulation.

VI. Estimate of Costs of Disciplinary Proceedings

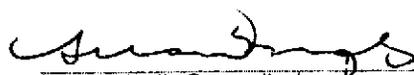
15. Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of April 24, 2006, the estimated prosecution costs in this matter are approximately \$1,636. Respondent acknowledges that this figure is an estimate only. Respondent further acknowledges that should 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.

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In the Matter of DAVID T. MARH	Case number(s): 05-H-04910
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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.

Date <u>5/3/06</u>	 Respondent's signature	<u>DAVID T. MARH</u> Print name
Date <u>5/3/06</u>	 Respondent's Counsel's signature	<u>SUSAN L. MARGOLIS</u> Print name
Date <u>5/8/06</u>	 Deputy Trial Counsel's signature	<u>CHRISTINE SOUHRADA</u> Print name

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In the Matter of DAVID T. MARH	Case number(s): 05-H-04910
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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 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.
- All Hearing dates 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. (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.)

05-12-06
Date


Judge of the State Bar Court

RICHARD A. PLATEL

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 May 15, 2006, 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:

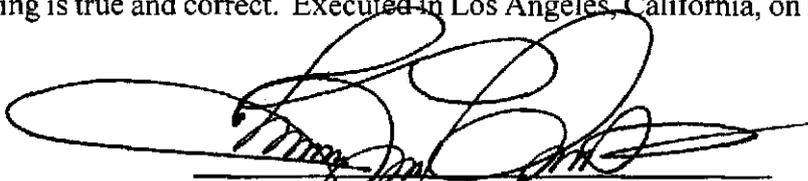
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**SUSAN L MARGOLIS
MARGOLIS & MARGOLIS LLP
2000 RIVERSIDE DR
LOS ANGELES CA 90039**

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

CHRISTINE SOUHRADA , Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **May 15, 2006**.



Johnnie Lee Smith
Case Administrator
State Bar Court