



(Do not write above this line.)

**ORIGINAL****State Bar Court of California****Hearing Department  
Los Angeles****PUBLIC MATTER**

Counsel For The State Bar  <b>Ashod Mooradian</b> Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1004  Bar # <b>194283</b>	Case Number (s) <b>07-C-11624-RAP</b>	(for Court's use)  <div style="text-align: center;"> <b>FILED</b>  <b>AUG 04 2009</b>          STATE BAR COURT          CLERK'S OFFICE          LOS ANGELES       </div>
In Pro Per Respondent  <b>Gary S. Spitzer</b> 8317 Yuma Place Los Angeles, CA 90046 (310) 920-1437  Bar # <b>155425</b>		
In the Matter Of: <b>GARY STEVEN SPITZER</b>  Bar # <b>155425</b>  A Member of the State Bar of California (Respondent)	Submitted to: <b>Settlement Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>PUBLIC REPROVAL</b>  <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 17, 1991**.
- (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 **14** 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: **three billing cycles following the effective date of the Supreme Court order.**  
(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.
- (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. **Respondent cooperated to the extent that he stipulated to facts, conclusions of law and level of discipline.**
- (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:**

None.

**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 **Three (3) years**.
- (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 reproof.
- (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: **Respondent's misconduct does not relate to the practice of law or involve a rule violation.**
- (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 reproof.

☒ No MPRE recommended. Reason: **The protection of the public and the interests of the Respondent do not require passage of the MPRE in this case. See In the Matter of Respondent G (Review Dept.1992), 2 Cal. State Bar Ct. Rptr. 181.**

- (11) ☒ The following conditions are attached hereto and incorporated:
- |  |   |
|--|---|
| <input checked="" 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:

None.

**ATTACHMENT TO**

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

**IN THE MATTER OF:**     GARY STEVEN SPITZER, Bar #155425

**CASE NUMBER(S):**     07-C-11624-RAP

**A.     PARTIES ARE BOUND BY THE STIPULATED FACTS, CONCLUSIONS OF LAW AND DISPOSITION.**

The parties intend to be and are hereby bound by the stipulated facts, conclusions of law, and disposition contained in this stipulation. This stipulation as to facts and the facts so stipulated shall independently survive even if the conclusions of law and/or stipulated disposition set forth herein are rejected or changed in any manner whatsoever by the Hearing Department or the Review Department of the State Bar Court, or by the California Supreme Court.

**B.     WAIVER OF FINALITY OF CONVICTION (rule 607).**

Pursuant to the *Rules of Procedure of the State Bar of California*, rule 607, the parties stipulate that the Court may decide the issues as to the discipline to be imposed even if the criminal convictions discussed herein are not final.

Respondent waives finality of his conviction and consents to the State Bar Court's acceptance of this Stipulation as to facts, conclusions of law and discipline in all respects as if the conviction was final, including the entry of findings consistent with this Stipulation, imposition of discipline, or entry of a recommendation as to the degree of the discipline to be imposed.

Respondent waives any right to challenge on the basis of a lack of finality of his conviction the State Bar Court's recommendation of discipline, if any, and the actual imposition of discipline, if any, by the State Bar Court or the California Supreme Court.

Respondent further waives any right he may have to seek review or reconsideration on the basis of any relief he may receive as a result of any appeal of, or petition regarding, the criminal conviction underlying any recommendation of and/or actual imposition of discipline by the State Bar Court or the California Supreme Court.

### C. FACTS AND CONCLUSIONS OF LAW.

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*.

#### Facts:

1. On December 18, 2005, at approximately 3:00 a.m., Gary Steven Spitzer ("Respondent") was observed by a citizen stopped in a vehicle at an intersection. Respondent's head was resting on the window and Respondent appeared to be unconscious.

2. The citizen called 9-1-1, and two fire department vehicles arrived approximately 20 minutes later with their sirens blaring. During the twenty-minute wait, and during the arrival of the emergency vehicles, Respondent did not wake up.

3. As the fire department personnel approached Respondent's vehicle, Respondent woke up, started his vehicle and drove through a red light at a high rate of speed. Respondent then made a U-turn and drove in the wrong direction, eventually speeding away from the area.

4. The citizen, in his vehicle, followed Respondent as Respondent drove through both commercial areas and residential neighbourhoods. While following Respondent, the citizen was in touch, via his cellular telephone, with the Beverly Hills Police Department, providing information on Respondent's whereabouts.

5. Eventually, Respondent came to a stop and parked his vehicle on a residential street.

6. Immediately thereafter, members of the Beverly Hills Police Department arrived at the location. Officer David Hamel ("Hamel"), arrived at the scene and detected that Respondent had the odor of alcohol on his person, slurred speech and red, watery and glassy eyes.

7. Respondent told Hamel that he weighed approximately 220 pounds, and that he had consumed a total of six drinks beginning at 9:00 p.m. and ending at 1:30 a.m. Hamel had Respondent perform a series of field sobriety tests ("FST's"), and at the conclusion thereof, arrested defendant for driving under the influence.

8. After being advised of Respondent's obligation to submit to testing, Respondent selected the blood test and was transported to a hospital. Respondent's blood was drawn at approximately 6:05 a.m. by a registered nurse.

9. Then, a criminalist analyzed Respondent's blood sample and obtained a blood alcohol reading of 0.10 percent. Using an extrapolation formula, the criminalist determined that at the time Respondent drove, Respondent's blood alcohol level was between 0.10 and 0.15 percent.

10. On March 15, 2006, a criminal complaint was filed in Los Angeles Superior Court case number 6BV00495 ("Criminal Case") charging Respondent with having committed, on or about December 18, 2005, the following offenses:

- a. violation of *Vehicle Code* §23152(a), a misdemeanor, [driving under the influence of alcohol/drugs];
- b. violation of *Vehicle Code* §23152(b), a misdemeanor, [driving a vehicle with a blood alcohol content of 0.08% or more];
- c. alleged prior conviction on February 24, 2000, for violation of *Vehicle Code* §23152(b), a misdemeanor, [driving a vehicle with a blood alcohol content of 0.08% or more] in Los Angeles Superior Court case number 9BH01754;
- d. alleged prior conviction on March 11, 2003, for violation of *Vehicle Code* §23103(a), a misdemeanor, ["wet" reckless driving] in Los Angeles Superior Court case number 2SB02436;

11. On January 29, 2007, jury trial begins in Respondent's Criminal Case and is completed on February 6, 2007. During the trial, Respondent is represented by counsel who offers exhibits and witness testimony including the testimony of Respondent.

12. On February 6, 2007, the jury issued its verdict in the Criminal Case finding Respondent guilty in Count One, a violation of *Vehicle Code* §23152(a)[driving under the influence of alcohol/drugs] and Count Two, a violation of *Vehicle Code* §23152(b)[driving a vehicle with a blood alcohol content of 0.08% or more].

13. On June 21, 2007, the Respondent was sentenced in the Criminal Case for:

- a. Count One to summary probation for a period of sixty (60) months, to serve 210 days in Los Angeles County jail, to enroll, participate and successfully complete an eighteen (18) month licensed second-offender alcohol and other drug education and counseling program, payment of restitution, fines, penalties and assessments;
- b. Count Two to summary probation for a period of sixty (60) months, to enroll, participate and successfully complete an eighteen (18) month licensed second-offender alcohol and other drug education and counseling program and to obey several other conditions, including but not limited to not driving any vehicle with any measurable amount of alcohol or drugs in Respondent's blood, to not refuse to take and complete any blood alcohol or drug chemical test, any FST's when requested by any peace officer, to not operate a motor vehicle for a period of three years without an ignition interlock device pursuant to *Vehicle Code* §23248 and to obey all laws and further orders of the Court.

#### Conclusions of Law:

14. The facts and circumstances surrounding Respondent's conviction in the Criminal Case for violation of *Vehicle Code* §23152(a) [driving under the influence of alcohol/drugs], a misdemeanor and conviction for violation of *Vehicle Code* §23152(b) [driving a vehicle with a blood alcohol content of 0.08% or more], a misdemeanor, involved other misconduct warranting discipline pursuant to *Business and Professions Code*, sections 6101 and 6102.



#### **D. AUTHORITIES SUPPORTING DISCIPLINE.**

##### Applicable Standards:

In *In re Silvertown*<sup>1</sup>, the California Supreme Court held that the *Standards For Attorney Sanctions For Professional Misconduct* (“Standard” or “Standards”) are entitled to “great weight” and the Court will “not reject a recommendation arising from the *Standards* unless [it has] grave doubts as to the propriety of the recommended discipline.” The *Standards* are not binding but “they promote the consistent and uniform application of disciplinary measures.”<sup>2</sup> The “presumptively appropriate level of discipline” for any misconduct is as set forth in the standards.<sup>3</sup>

Further, the primary purposes of disciplinary proceedings 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.<sup>4</sup> Pursuant to the *Standards* and as further discussed below, Respondent’s misconduct warrants significant discipline.

*Standard 3.4* provides that the final conviction of a member of a crime which does not involve moral turpitude inherently or in the facts and circumstances surrounding the crime’s commission but does involve other misconduct warranting discipline shall result in a sanction as prescribed under part B of the standards. According to the California Supreme court, the discipline suggested under standard 3.4 “is that discipline ‘appropriate to the nature and extent of the misconduct.’”<sup>5</sup>

##### Aggravating Circumstances:

*Standard 1.2(b)* provides for a greater degree of sanction than set forth in the *Standards* where aggravating circumstances exist. No aggravating circumstances exist in this matter.

##### Mitigating Circumstances:

*Standard 1.2(e)* provides for a more lenient degree of sanction than set forth in the *Standards* where mitigating circumstances exist. In this case, there is a mitigating circumstance. Pursuant to *Standard 1.2(e)(v)*, Respondent cooperated to the extent that he stipulated to facts, conclusions of law and level of discipline.

Given the nature and scope of Respondent’s misconduct, and considering evidence of aggravating and mitigating circumstances, the appropriate level of discipline under the *Standards* is a public reproof.

---

<sup>1</sup> (2005) 36 Cal. 4th 81, 92.

<sup>2</sup> *Id.*

<sup>3</sup> See *Morgan v. State Bar* (1990) 51 Cal.3d 598, 607.

<sup>4</sup> See *Standard 1.3*.

<sup>5</sup> *In re Kelley* (1990) 52 Cal. 3d 487, 498.

Caselaw:

In fashioning the appropriate level of discipline, the *Standards* are the starting point. Consideration must also be given to whether the recommended discipline is consistent with or disproportional to prior decisions of the California Supreme Court and the Review Department of the State Bar Court.

The Respondent's convictions involved driving, but no actual harm occurred to any person or property. Thus, the present case is distinguishable from *In re Alkow*.<sup>6</sup> Although the potential for harm was significant given Respondent's operation of a motor vehicle while intoxicated, the paucity of facts presented do not permit a conclusion that Respondent's "conduct showed a complete disregard for the conditions of his probation, the law, and the safety of the public."<sup>7</sup> However, the Supreme Court has concluded in other cases that drunk driving convictions may involve other misconduct warranting discipline.

*In re Kelley*<sup>8</sup> involved an attorney who, had been convicted of driving under the influence in violation of *Vehicle Code* §23152(b), with a prior conviction for the same offense, and of violating the terms of her probation imposed in the first conviction in violation of Penal Code, §1203.2.<sup>9</sup> The prior conviction occurred some 31 months before the second conviction.<sup>10</sup> The Supreme Court found that Kelley's two driving under the influence convictions within a 31-month period indicated problems with alcohol abuse.<sup>11</sup> "Her repeated criminal conduct, and the circumstances surrounding it, are indications of alcohol abuse that is adversely affecting petitioner's private life. We cannot and should not sit back and wait until petitioner's alcohol abuse problem begins to affect her practice of law."<sup>12</sup>

Respondent had a prior conviction for DUI in 2000 and a prior conviction for "wet" reckless driving (which is considered a prior for the DUI conviction at issue in this matter) in 2003 and the conviction in this matter occurred in 2007. Although none of the convictions involved the practice of law, Respondent's repeated criminal conduct within this extended period of time is an indication that alcohol abuse is adversely affecting Respondent's private life. Thus, Respondent's level of discipline should at least be equal to that imposed upon *Kelley*.

Therefore, for the misconduct described herein, Respondent's public reproof is the level of discipline consistent with the applicable standards and caselaw.

**E. PENDING PROCEEDINGS.**

Respondent was notified in writing of any pending investigations not included in this stipulation, pursuant to *Rules of Procedure of the State Bar of California*, rule 133(12), on July 21, 2009.

---

<sup>6</sup> (1966) 64 Cal.2d 838.

<sup>7</sup> *In re Alkow*, *supra*, 64 Cal.2d 838, 841.

<sup>8</sup> *In re Kelley*, *supra*, 52 Cal. 3d 487, 496.

<sup>9</sup> *In re Kelley*, *supra*, 52 Cal. 3d 487, 491-492.

<sup>10</sup> *In re Kelley*, *supra*, 52 Cal. 3d 487, 492.

<sup>11</sup> *In re Kelley*, *supra*, 52 Cal. 3d 487, 495.

<sup>12</sup> *Id.*

**F. COSTS.**

Respondent acknowledges that the Office of Chief Trial Counsel has informed Respondent that as of July 21, 2009, the estimated prosecution costs in this matter are approximately \$3,530.00. 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.

If Respondent fails to pay any installment within the time provided herein or as may be modified by the State Bar Court pursuant to section 6068.10, subdivision (c), the remaining balance of the costs is due and payable immediately and enforceable both as provided in *Business and Professions Code*, section 6140.7 and as a money judgment unless relief has been granted under rule 286 of the *Rules of Procedure of the State Bar of California*.

In the Matter of  
**GARY STEVEN SPITZER**

Case number(s):  
**07-C-11624-RAP**

### **Substance Abuse Conditions**

a. ☐ Respondent must abstain from use of any alcoholic beverages, and shall not use or possess any narcotics, dangerous or restricted drugs, controlled substances, marijuana, or associated paraphernalia, except with a valid prescription.

b. ☐ Respondent must attend at least                      meetings per month of:

☐ Alcoholics Anonymous

☐ Narcotics Anonymous

☐ The Other Bar

☐ Other program

As a separate reporting requirement, Respondent must provide to the Office of Probation satisfactory proof of attendance during each month, on or before the tenth (10<sup>th</sup>) day of the following month, during the condition or probation period.

c. ☐ Respondent must select a license medical laboratory approved by the Office of Probation. Respondent must furnish to the laboratory blood and/or urine samples as may be required to show that Respondent has abstained from alcohol and/or drugs. The samples must be furnished to the laboratory in such a manner as may be specified by the laboratory to ensure specimen integrity. Respondent must cause the laboratory to provide to the Office of Probation, at the Respondent's expense, a screening report on or before the tenth day of each month of the condition or probation period, containing an analysis of Respondent's blood and/or urine obtained not more than ten (10) days previously.

d. ☐ Respondent must maintain with the Office of Probation a current address and a current telephone number at which Respondent can be reached. Respondent must return any call from the Office of Probation concerning testing of Respondent's blood or urine within twelve (12) hours. For good cause, the Office of Probation may require Respondent to deliver Respondent's urine and/or blood sample(s) for additional reports to the laboratory described above no later than six hours after actual notice to Respondent that the Office of Probation requires an additional screening report.

e. ☐ Upon the request of the Office of Probation, Respondent must provide the Office of Probation with medical waivers and access to all of Respondent's medical records. Revocation of any medical waiver is a violation of this condition. Any medical records obtained by the Office of Probation are confidential and no information concerning them or their contents will be given to anyone except members of the Office of Probation, Office of the Chief Trial Counsel, and the State Bar Court who are directly involved with maintaining, enforcing or adjudicating this condition.

**OTHER TERMS:**

**1) Substance Abuse Evaluation ("SAE")**

- a) Respondent must undergo a SAE conducted by a medical doctor who has attained the American Society of Addiction Medicine (ASAM) certification for qualification;
- b) The SAE and Report (not including treatment, if any) must be completed within 60 days of the effective date of this Reapproval;
- c) Respondent's failure to complete the SAE within the time indicated in sub-paragraph "b)" above will be deemed a Reapproval violation;
- d) If the SAE Report indicates the need for treatment, Respondent will comply with and complete the terms of the recommended treatment. Respondent's compliance with the terms of the recommended treatment would be determined by the ASAM member pursuant to ASAM standards;
- e) Respondent will report his compliance with all terms of the SAE Report's recommended treatment to the State Bar Office of Probation on a quarterly basis during the entire effective period of the Reapproval;
- f) Respondent must inform the State Bar Office of Probation upon completion of the SAE Report's recommended treatment, if any;
- g) Respondent's failure to participate and complete the SAE Report's recommended treatment by ASAM standards will be deemed a Reapproval violation;
- h) Within 15 days after the completion of the SAE report, Respondent must provide the Office of Probation with medical waivers and access to obtain a copy of the SAE Report and Respondent's treatment/medical records maintained by the ASAM member. Any medical records obtained by the Office of Probation are confidential and no information concerning them or their contents will be given to anyone except members of the Office of Probation, Office of Chief Trial Counsel, and the State Bar Court who are directly involved with maintaining, enforcing or adjudicating this condition;
- i) Respondent's revocation of the medical waiver referenced in sub-paragraph "h)" above will be deemed a Reapproval violation.

(Do not write above this line.)

In the Matter of <b>GARY STEVEN SPITZER</b>	Case number(s): <b>07-C-11624-RAP</b>
--	--

### 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.

7/28/09

Date

  
Respondent's Signature

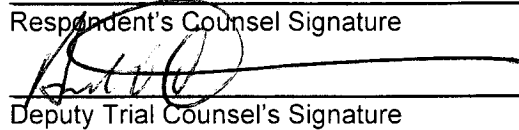
Gary Steven Spitzer  
Print Name

                      
Date

                      
Respondent's Counsel Signature

                      
Print Name

07/29/2009  
Date

  
Deputy Trial Counsel's Signature

Ashod Mooradian  
Print Name

(Do not write above this line.)

In the Matter Of  
**GARY STEVEN SPITZER**

Case Number(s):  
**07-C-11624-RAP**

### ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproof, 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.

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 reproof may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.**

08-03-09

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 August 4, 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:

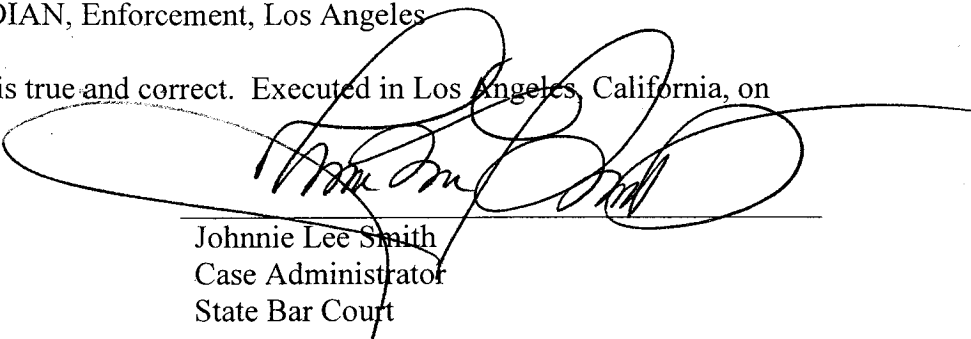
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

GARY S SPITZER  
8317 YUMA PLACE  
LOS ANGELES, CA 90046

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

ASHOD MOORADIAN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 4, 2009.



Johnnie Lee Smith  
Case Administrator  
State Bar Court