

(Do not write above this line.)

- (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):
- 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: the two (2) 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

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.
- (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 has exhibited spontaneous candor and cooperation in both the underlying criminal matter and during this matter pending before the State Bar Court. See attachment at page 12.
- (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. Respondent openly expressed to the State Bar about his remorse for his misconduct. See attachment at page 12.
- (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. Respondent has provided the State Bar with several "good character" declarations from attorneys, friends, neighbors, religious leaders and business owners. See attachment at page 12.

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- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation. Respondent has provided the State Bar with convincing proof of subsequent rehabilitation. See attachment at page 12.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances

None.

D. Discipline:

- (1) **Stayed Suspension:**
- (a) Respondent must be suspended from the practice of law for a period of two (2) years.
- 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:
- (b) The above-referenced suspension is stayed.

(2) **Probation:**

Respondent must be placed on probation for a period of three (3) years, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

(3) **Actual Suspension:**

- (a) Respondent must be actually suspended from the practice of law in the State of California for a period of five (5) 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 as set forth in the Financial Conditions form attached to this stipulation.
- 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 must 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.

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- (2) During the probation period, 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 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 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.

- (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 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.
- (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 probation conditions.
- (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: .
- (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) The following conditions are attached hereto and incorporated:
 - Substance Abuse Conditions Law Office Management Conditions
 - Medical Conditions Financial Conditions

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

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Conference of Bar Examiners, to the Office of Probation 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 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**

No MPRE recommended. Reason:

- (2) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) **Other Conditions: MCLE CREDIT:** Respondent will not receive Minimum Continuing Legal Education (MCLE) credit for attending the State Bar Ethics School as required pursuant to paragraph E.(8) above. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for attending these courses (Rule 3201, Rules of Procedure of the State Bar of California.)

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: KAMRAN BEHNAM, Bar #191986

CASE NUMBER(S): 07-C-12175-DFM

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 convictions 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 convictions were 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 convictions 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 convictions 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. Kamran Behnam ("Respondent") was admitted to practice law in California on December 4, 1997, was practicing law at all relevant times involved in this matter and continues to practice law up to the current time.

2. Between March 23, 2001 and November 18, 2003, the Los Angeles Police Department, Commercial Crimes Division, Auto Repair Fraud Unit ("LAPD") conducted several undercover investigations directed primarily at Seyed Maghloubi ("Sid") who was identified as developing and executing a scheme to defraud several insurance companies by submitting inflated property damage estimates that included reports of damage attributed to a traffic collision, but that were in fact "created" at the body shop by Sid and/or his staff.

3. Although Respondent admits that he received two personal injury client referrals from Sid, Respondent was not knowingly involved in Sid's insurance fraud scheme. Respondent's knowledge of the referred cases came primarily from a package of materials which included medical and accident reports together with an appraisal and insurance report. Respondent had nothing to do with constructing those reports, and there was nothing in that material that indicated that there had been any fraud.

4. In March 2003, two LAPD officers ("UC or UC's") were enlisted to conduct an undercover operation regarding Sid's insurance fraud and posed as people who had been involved in an auto accident. The UC's were provided a "pre-text insurance policy" and a white 2000 Toyota Camry four-door with pre-existing damage totaling \$2,736.57 from the Inter-Insurance Exchange of the Automobile Club ("AAA").

5. On March 5, 2003, one of the UC's, using an undercover identity, met with Sid, and told him that there was insurance coverage and that an accident claim had not been made with AAA or reported to the police. Sid then stated that if the UC "forgot all about how the accident actually occurred" and instead followed his instructions, the UC and a friend could make ten thousand dollars each. That UC agreed and ultimately the other UC was brought in to play the role of the passenger.

6. Sid described in great detail and using diagrams, how the UC's must report the "accident" to the insurance company and the police. Then, Sid personally helped the UC's to report their claim to AAA and report the accident to LAPD. In addition, Sid referred the UC's to chiropractor Andrew Alavian ("Chiropractor") where they "treated" for the next four months.

7. On March 11, 2003, one of the UC's had the opportunity to observe the undercover vehicle, while it was still in a state of repair. It was at that time that the UC's discovered that someone at the body shop had "enhanced" the existing traffic accident damage. In fact, AAA's property damage adjuster evaluated the damage to the Toyota Camry as totaling

\$4,452.18. In other words, approximately \$1,715.16 worth of damage was added by Sid to the original pre-existing damage.

8. After the UC's reported the accident claim to AAA, the Body Shop Owner telephoned Respondent with the purpose of referring the UC's to him for legal representation.

9. Respondent spoke with the UC's on the telephone about the case and they agreed to his representation. Then, Respondent sent his retainer and other documents to the body shop via FAX and the UC's signed and returned these documents to Respondent by FAX.

10. On May 6, 2003, the UC's met with and surreptitiously videotaped their contact with Respondent. The purpose of the meeting was to give Respondent the opportunity to prepare the UC's for their telephonic statement, before being interviewed by the AAA adjuster. During the May 6, 2003 meeting, Respondent urged the UC's to lie as follows:

- a. Respondent instructed the UC's that if they were asked by AAA where they were going when the accident occurred they should respond that they were going to see a property in the area. When the UC's pressed Respondent for more details (e.g., type of store, etc.) Respondent stated that they should tell AAA they got lost and never found the property;¹
- b. Respondent asked the UC's what type of car struck their vehicle, but when they stated they did not know, he instructed the UC's to tell AAA that it was a Buick or maybe a Ford;²
- c. Although the UC's told Respondent that all of the chiropractic "treatments" were performed by an assistant, Respondent instructed them to tell AAA that their "treatments" were in fact conducted by Chiropractor himself;³
- d. Although the UC's told Respondent that they were referred to Chiropractor by Sid, Respondent instructed them to tell AAA that they were actually referred by Maria Gonzalez^{4,5};
- e. When the UC's told Respondent that Chiropractor told them that he will only treat them thirty-six (36) times each and no more, Respondent instructed them to not tell AAA that, but rather to state that they treated until they felt better.⁶

11. Respondent contends that one of his purposes in telling the UC's to lie as described above in paragraphs "10.a." through "10.e.," was to prevent unnecessary delay in the processing of the insurance claim.

¹ The UC's actually recited this lie in response to questioning by the AAA adjuster during the telephonic statement.

² The UC's did not have occasion to actually recite this lie to the AAA adjuster during the telephonic statement.

³ The UC's did not have occasion to actually recite this lie to the AAA adjuster during the telephonic statement.

⁴ At all times during the LAPD undercover operation, there was no person by the name of "Maria Gonzalez" involved in any manner.

⁵ The UC's did not have occasion to actually recite this lie to the AAA adjuster during the telephonic statement.

⁶ The UC's did not have occasion to actually recite this lie to the AAA adjuster during the telephonic statement.

12. Then, the AAA adjuster called and the UC's gave their telephonic statement. During the statement, Respondent continued to silently gesture and communicate with UC's to ensure that the facts related to AAA were consistent with the fact of the accident as first reported.

13. On November 18, 2003, the UC's received a telephone call from Respondent requesting that they come to his office to endorse two \$7,500.00 settlement checks he received from AAA.

14. That same day, UC's came to Respondent's office and had a meeting with Respondent wherein he explained to each of them that after paying attorney's fees and medical bills, each would receive a net settlement of \$1,700.00. Respondent then gave each UC their settlement check and went with the UC's to the bank to cash the checks that same day.

15. At the end of this meeting, Respondent stated to the UC's that his practice relies on referrals as he does not advertise. Specifically, Respondent stated that if either of them referred him a client in the future he would pay them \$500.00 for each referral.

16. Respondent admitted that after this accident case settled Sid asked Respondent for \$1,000.00 to help defray his wife's medical costs. Respondent, however, understood that the \$1,000.00 was actually Sid's referral fee. Further, after Sid referred another case which settled, Sid again asked for \$500.00 without mentioning anything about the referral. Again, Respondent understood that the \$500.00 was actually Sid's referral fee.

17. On February 28, 2007, the Los Angeles County District Attorney filed a felony complaint wherein Count One charged Respondent, Chiropractor and Sid with a violation of *Penal Code* section 550(a)(1) [Insurance Fraud]. However, due to Respondent's cooperation with the authorities, a plea bargain was offered and accepted by Respondent.

18. Accordingly, on April 9, 2009, Respondent pled guilty to a misdemeanor violation of *Insurance Code* section 750(a) and the *Penal Code* section 550(a)(1) [Insurance Fraud] charge was dismissed.

19. Ultimately, Respondent was sentenced to one day in jail with credit for one day, three years summary probation, the payment of various assessments, fines and penalties, including \$10,000 in restitution to AAA, as a victim of crime, pursuant to *Penal Code* section 1202.4(f) and three hundred hours community service.

Conclusions of Law:

20. The facts and circumstances surrounding Respondent's conviction for violation of *Insurance Code* section 750(a) [Unlawful Offer or Receipt of Compensation for Referral of Clients], a misdemeanor, involved other moral turpitude warranting discipline pursuant to *Business and Professions Code*, sections 6101 and 6102.

D. AUTHORITIES SUPPORTING DISCIPLINE.

Applicable Standards:

In *In re Silvertown*⁷, 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.”⁸ The “presumptively appropriate level of discipline” for any misconduct is as set forth in the standards.⁹

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.¹⁰ Pursuant to the *Standards*, Respondent’s misconduct warrants significant discipline.

Further, based on the fact that Respondent’s violation of *Insurance Code* section 750(a) involved moral turpitude and the discussion above, the applicable standard is *Standard* 3.2. *Standard* 3.2 provides that the final “...conviction of a member of a crime which involves moral turpitude, either inherently or in the facts and circumstances surrounding the crime’s commission shall result in disbarment. Only if the most compelling mitigating circumstances clearly predominate, shall disbarment not be imposed. In those latter cases, the discipline shall not be less than a two-year actual suspension, prospective to any interim suspension imposed, irrespective of mitigating circumstances.”

Aggravating Circumstances:

An aggravating circumstance “...is an event or factor established clearly and convincingly by the State Bar as having surrounded a member’s professional misconduct and which demonstrates that a greater degree of sanction than set forth in these standards¹¹ for the particular act of professional misconduct found or acknowledged is needed to adequately protect the public, courts and legal profession.”¹² *Standard* 1.2(b) provides for a greater degree of sanction than set forth in the standards where aggravating circumstances exist.

In this matter, there are no aggravating circumstances.

⁷ (2005) 36 Cal. 4th 81, 92.

⁸ *Id.*

⁹ See *Morgan v. State Bar* (1990) 51 Cal.3d 598, 607.

¹⁰ See *Standard* 1.3.

¹¹ *Standards for Attorney Sanctions for Professional Misconduct*. Hereinafter “Standard” or “Standards”.

¹² *Standard* 1.2(b).

Mitigating Circumstances:

A mitigating circumstance "...is an event or factor established clearly and convincingly by the member subject to a disciplinary proceeding as having caused or underlain the member's professional misconduct and which demonstrates that the public, courts and legal profession would be adequately protected by a more lenient degree of sanction than set forth in these standards for the particular act of professional misconduct found or acknowledged."¹³ *Standard 1.2(e)* provides for a lesser degree of sanction than set forth in the standards where mitigating circumstances exist. In this matter, the following four circumstances should be considered mitigating.

First, Respondent has exhibited spontaneous candor and cooperation in both the underlying criminal matter and during this matter pending before the State Bar Court.¹⁴ In the underlying criminal prosecution, Respondent cooperated with authorities in their investigation of the Sid and in the investigation of his own conduct. Also, during the pendency of the instant matter, Respondent cooperated with the State Bar, informally providing documents and other significant information that assisted the State Bar in its understanding of Respondent's misconduct herein. In fact, Respondent was very candid in his deposition and made significant admissions regarding facts that otherwise would have been very difficult for the State Bar to detect and/or prove at trial (e.g., Respondent's admission regarding the true nature of his payments to Sid after the completion of the referred cases). Finally, Respondent also cooperated in that he has stipulated to facts, conclusions of law and level of discipline.

Second, Respondent openly expressed to the State Bar about his remorse for his misconduct.¹⁵ Also, on two occasions, Respondent spoke to the Iranian Bar Association about his conviction and the surrounding circumstances. Respondent has explained what he did, how he became involved, and how he allowed himself to commit misconduct. Respondent has thus been open about his misconduct publicly and hopes by this he will help others to avoid doing the same thing. The State Bar is satisfied that Respondent's remorse is genuine and demonstrates that Respondent has taken a significant and meaningful first step towards ensuring that ethical misconduct will not recur in the future.

Third, Respondent has provided the State Bar with several "good character" declarations¹⁶ from attorneys, friends, neighbors, religious leaders and business owners who have all stated that they are aware of the crime that Respondent was convicted of, have known Respondent for a significant time and/or have worked professionally with Respondent, would still hold that Respondent has good character and believe that Respondent will not commit any misconduct in the future. Many of these declarations also attest to Respondent's charitable contributions of time and resources for his community.

Finally, Respondent has provided the State Bar with convincing proof of subsequent rehabilitation. First, the misconduct at issue herein occurred in May 2003 and in November

¹³ *Standard 1.2(e)*.

¹⁴ *Standard 1.2(e)(v)*.

¹⁵ *Standard 1.2(e)(vii)*.

¹⁶ *Standard 1.2(e)(vi)*.

2003. Thus, nearly seven (7) years has passed since Respondent's acts of professional misconduct occurred. Further, Respondent has spoken passionately about how this conviction and its consequences on his professional and personal life sparked a spiritual renewal. For instance, Respondent is very active in a refugee task force committee assisting members of the Baha'i faith who have come here to escape oppression in Iran. The task force, among other things, helps the refugees to find homes, jobs and schooling. In addition, Respondent is an organizer in the *Mona Foundation*, named for a six-year-old Baha'i girl who was executed in Iran several years ago. The organization has raises money for children in Cambodia, provides medical care and arranges for professionals from various fields who have donated their services and expertise to travel internationally where they are needed.

Therefore, given the nature and scope of Respondent's misconduct, including the mitigation evidence, the appropriate level of discipline would be actual suspension but for a period of time less than would otherwise be called for under *Standard 3.2*.

Caselaw:

In fashioning the appropriate level of discipline, the Standards are the starting point. Nevertheless, the Court must also consider 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.¹⁷

In *Matter of Duxbury*,¹⁸ attorney Duxbury, as the result of a *nolo contendere* plea to an amended criminal complaint, was found guilty of a misdemeanor violation of *Insurance Code* section 750(a). Duxbury received two cases, each with two alleged plaintiffs, from a non-attorney or capper who stated he would refer cases to him for a fee of \$500 per person. The Review Department found that Duxbury made no effort to determine the legitimacy of the capper's referral scheme, did not want them to transport clients to his office, sought to involve another chiropractor in the scheme, and admitted to the undercover officer that he had made similar arrangements in the past. The Review Department also found that the fact that the charges of capper were based on the number of clients referred, and not on the extent of the investigation, which makes it clear that the payment was for the referral of clients and not any purported investigation. Citing *Kitsis v. State Bar*,¹⁹ the Review Department agreed with the hearing judge concluded that Kitsis' conduct surrounding his conviction for violating *Insurance Code* section 750(a) involved moral turpitude. The Review Department also found that there were mitigating circumstances surrounding Duxbury's conduct. Ultimately, the Review Department held that the appropriate level of discipline for Duxbury was a six (6) month actual suspension.

In this matter, like Duxbury, Respondent was convicted of capping with at least one client. Further, like Duxbury, Respondent made no attempt to determine the legitimacy of the referral that he paid. However, unlike Duxbury, there is no evidence that Respondent was knowingly involved in fraud. Respondent paid Sid a referral fee, but did not know he was

¹⁷ *Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311.

¹⁸ (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 61.

¹⁹ (1979) 23 Cal.3d 857.

participating in a larger insurance fraud scheme. Whereas Duxbury was directly offered to enter into a capping scheme by an undercover officer, agreed to participate, made suggestions as to how the participants could better avoid detection and tried to involve another chiropractor. Finally, like Duxbury, there are mitigating circumstances surrounding Respondent's misconduct. However, Respondent's mitigation is more significant and substantial than Duxbury's, especially regarding subsequent rehabilitation.

In summary, Respondent's misconduct herein, although similar to Duxbury's misconduct in certain ways, was less egregious in that he did not knowingly involve himself in the fraud. Respondent's knowledge of the referred cases came primarily from a package of materials which included medical and accident reports together with an appraisal and insurance report. Respondent had nothing to do with constructing those reports, and there was nothing in that material that indicated that there had been any fraud.

Therefore, for the misconduct described herein, an actual suspension of five (5) months 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 May 3, 2010.

F. COSTS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed Respondent that as of May 3, 2010, 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*.

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In the Matter of KAMRAN BEHNAME	Case number(s): 07-C-12175-DFM
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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.

May 11, 2010
Date


Respondent's Signature

Kamran Behnam
Print Name

May 11, 2010
Date


Respondent's Counsel Signature

Arthur L. Margolis
Print Name

May 12, 2010
Date


Deputy Trial Counsel's Signature

Ashod Mooradian
Print Name

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In the Matter Of KAMRAN BEHNAM	Case Number(s): 07-C-12175-DFM
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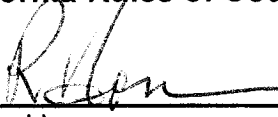
ORDER

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.
 1. At page 10, paragraph 20, the word "other" is stricken.
 2. At page 4, the "x" in paragraph E.(1) is removed.

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 9.18(a), California Rules of Court.)**

5/31/10
Date


Richard A. Honn
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 May 21, 2010, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION

in a sealed envelope for collection and mailing on that date as follows:

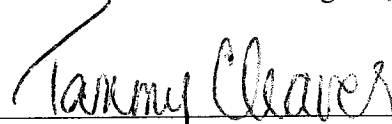
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**ARTHUR LEWIS MARGOLIS
MARGOLIS & MARGOLIS LLP
2000 RIVERSIDE DR
LOS ANGELES, CA 90039**

- 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 May 21, 2010.



Tammy Cleaver
Case Administrator
State Bar Court