

(Do not write above this line.)

State Bar Court of California Hearing Department Los Angeles		
<p>PUBLIC MATTER</p> <p>Counsel For The State Bar</p> <p>Suzan J. Anderson Deputy Trial Counsel 1149 S. Hill Street Los Angeles, California 90015 (213) 765-1209</p> <p>Bar # 160559</p>	<p>Case Number (s) 07-C-12877-RAP</p>	<p>(for Court's use)</p> <p style="text-align: center; font-size: 24pt;">FILED</p> <p style="text-align: center;">MAY 14 2008</p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p>David Turajski 33000 Bouquet Canyon Road Santa Clarita, California 91390 (323) 899-3013</p>	<p>Submitted to: Assigned Judge</p>	
<p>Bar # 155885</p> <p>In the Matter Of: David Turajski</p>	<p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p>	
<p>Bar # 155885</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>STAYED SUSPENSION; NO ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **December 16, 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 **12** 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."



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- (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.
 - costs to be paid in equal amounts prior to February 1 for the following membership years: **the following two 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 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

C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.

- (1) **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) **Good Faith:** Respondent acted in good faith.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances

D. Discipline:

(1) **Stayed Suspension:**

(a) Respondent must be suspended from the practice of law for a period of **one (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 **two (2) years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court)

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 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.

(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 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 the State Bar Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: .
- (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 checked="" type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> 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 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 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**

No MPRE recommended. Reason:

- (2) **Other Conditions:**

Respondent shall continue with the Anger Management Therapy that was a part of his sentence in the conviction matter. Respondent shall attend one (1) session per week at Emerge From Anger in Santa Clarita for a period of six (6) months following the effective date of the Supreme Court Order. Respondent shall include in any written reports to the Office of Probation a statement under penalty of perjury regarding whether he has complied with this condition. Respondent shall execute all waivers of confidentiality necessary to at minimum allow the Office of Probation access to all treatment and compliance information under this section. In addition, releases shall require the mental health treatment provider to notify the Office of Probation immediately of all instances of non-compliance with treatment. At no time during his probation shall Respondent rescind such waivers. Respondent shall provide proof to the Office of Probation, upon request, that he has executed all such medical releases under this section. All treatment under this section shall be at Respondent's expense.

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Attachment language (if any):

Please see attachment, pages 8 through 10.

In the Matter of
David Turajski

Case number(s):
07-C-12877-RAP

A Member of the State Bar

Law Office Management Conditions

- a. Within days/ months/ years of the effective date of the discipline herein, Respondent must develop a law office management/organization plan, which must be approved by the Office of Probation. This plan must include procedures to (1) send periodic reports to clients; (2) document telephone messages received and sent; (3) maintain files; (4) meet deadlines; (5) withdraw as attorney, whether of record or not, when clients cannot be contacted or located; (6) train and supervise support personnel; and (7) address any subject area or deficiency that caused or contributed to Respondent's misconduct in the current proceeding.
- b. Within days/**six (6)** months/ years of the effective date of the discipline herein, Respondent must submit to the Office of Probation satisfactory evidence of completion of no less than **six (6)** hours of Minimum Continuing Legal Education (MCLE) approved courses in law office management, attorney client relations and/or general legal ethics. 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.)
- c. Within 30 days of the effective date of the discipline, Respondent must join the Law Practice Management and Technology Section of the State Bar of California and pay the dues and costs of enrollment for year(s). Respondent must furnish satisfactory evidence of membership in the section to the Office of Probation of the State Bar of California in the first report required.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: David Turajski

CASE NUMBER(S): 07-C-12877-RAP

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.

PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING.

1. This is a proceeding pursuant to sections 6101 and 6102 of the Business and Professions Code and rule 9.10 of the California Rules of Court.
2. On August 27, 2007, respondent was convicted of violating California Penal Code section 242 (Battery) a misdemeanor.
3. On November 21, 2007, the Review Department of the State Bar Court issued an order referring the matter to the Hearing Department on the following issues: for a hearing and decision recommending the discipline to be imposed in the event that the Hearing Department finds that the facts and circumstances surrounding the violation of Penal Code section 242, of which Respondent was convicted, involved moral turpitude or other misconduct warranting discipline.

FACTS

1. Respondent was employed with So Cal Legal Services ("So Cal"), owned by Tommy Cohen, Esq. for several years until after an incident on April 30 2007. Eduardo George ("Mr. George"), was the office manager in the office where Respondent worked.
2. On April 30, 2007, Respondent was returning from a visit with his mother in Orange County and realized he had forgotten to fax some documents to an opposing party and returned to So Cal to use the facsimile machine. It was after hours, but Respondent had called ahead and there were several people still in the office, including Mr. George.

3. As Respondent walked toward the office where the facsimile machine was located, Mr. George bumped into Respondent with his shoulder and tried to grab the fax from Respondent. Respondent then hit Mr. George on his shoulder with Respondent's right hand.

4. Mr. George then grabbed Respondent and placed his arms around him in a bear hug to prevent Respondent from hitting him again.

5. Respondent broke free and exited the office. Mr. George called the police and reported the incident.

6. About 45 minutes after the incident, Mr. George called Respondent and informed him that he need not return to work at So Cal Legal Services.

7. On May 9, 2007, a Misdemeanor Complaint was filed in the Superior Court of the State of California for the County of Los Angeles, charging Respondent with one count of Penal Code section 242 - battery.

8. On August 27, 2007, Respondent pled Nolo Contendere to the count of battery and sentence was imposed on that date. The Court sentenced Respondent to summary probation for a period of 24 months, restitution and to complete 16 session of anger management therapy.

CONCLUSIONS OF LAW

The facts and circumstances surrounding Respondent's violation of Penal Code section 242 did not involve moral turpitude, but did involve other conduct warranting discipline. Respondent acknowledges that by the conduct described above, he failed to support the laws of the State of California in wilful violation of California Business and Professions Code section 6068(a).

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was May 8, 2008.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of February 22, 2008, the costs in this matter are \$1,636.00. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

OTHER CIRCUMSTANCES BEARING ON DISPOSITION

Although Respondent had called ahead on April 30, 2007, in order to stop at the office of So Cal Legal Services to fax a document, when he arrived at the office he noticed that Mr. George and all the secretaries seemed to be in a "testy" mood. Respondent was never informed of the reason for the moodiness.

Prior to this incident, Respondent was temporarily living at his mother's home in Orange County before he bought his own residence, and had given Mr. George his mother's telephone number. Several times when Mr. George was trying to reach Respondent at that number, Mr. George had left threatening messages on Respondent's mother's answering machine. In April or May of 2006, Respondent and his mother reported Mr. George's behavior to the La Palma Police Department, which initiated an investigation into Mr. George's behavior. At the conclusion of the investigation, the La Palma Police Department contacted Mr. George and instructed him to refrain from leaving any such messages with Respondent's mother.

Respondent believes that this had been simmering with Mr. George for some time and that the incident on April 30, 2007, was the result of Respondent making the police report to the La Palma Police Department.

This was an aberrant incident and will not happen again because Respondent has never been involved in an altercation of this sort with anyone else. In addition, Respondent recognized that he sometimes had a bad temper and the successful completion of the anger management course ordered in his criminal probation has helped with that. Respondent now feels more equipped to deal with any anger issues in a more productive manner. Additionally, Respondent no longer works for Mr. George.

Further, Respondent is looking forward to continuing with the anger management therapy as required by this Stipulation as a "refresher course" to make further gains and re-educate himself in productive ways to deal with any anger issues.

AUTHORITIES SUPPORTING DISCIPLINE.

Pursuant to Standard 1.3, the primary purposes of disciplinary proceedings and imposing sanctions for professional misconduct are, "the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys; and the preservation of public confidence in the legal profession."

With respect to the criminal conviction, Standard 3.4 provides:

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 which does involve other misconduct warranting discipline shall result in a sanction as prescribed under part B of these standards appropriate to the nature and extent of the misconduct found to have been committed by the member.

By definition, every criminal conviction involves a violation of Business and Professions Code section 6068(a). Pursuant to Standard 2.6, the culpability of a member of a violation of Business and Professions Code section 6068, "shall result in disbarment or suspension depending on the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3."

The Supreme Court gives the Standards "great weight," and will reject a recommendation consistent with the Standards only where the Court entertains "grave doubts" as to its propriety. *In re Naney* (1990) 51 Cal. 3d 186, 190; *see also In re Silverton* (2005) 36 Cal. 4th 81, 91, 92. Further, although the Standards are not mandatory, it is well established that the Standards may be deviated from only when there is compelling, well-defined reason to do so. *See Aronin v. State Bar* (1990) 52 Cal. 3d 276, 291; *see also Bates v. State Bar* (1990) 52 Cal. 3d 1056, 1060, fn. 2.

In *In the Matter of Hunsdon Stewart* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 52, Respondent was convicted of misdemeanor battery on a police officer. The Review Department adopted the Hearing Judge's recommendations and Respondent was suspended for two years stayed, placed on two years probation with conditions to include sixty days actual suspension.

In *In the Matter of Thomas Burns*, (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 406, Respondent was convicted on assault with a firearm, with the enhancement that he discharged a firearm at an occupied motor vehicle which caused great bodily injury to the person of another. Respondent was suspended for two years stayed with probation for two years on conditions and no actual suspension because he had served ten and one-half months interim suspension.

Although both of these cases required a period of actual suspension, the incidents in these cases were much more serious than that in which Respondent was involved. In *Stewart*, the Respondent committed battery on a police officer and in *Burns*, there was attendant great bodily injury to the battery. In the instant matter, neither of these situations apply.

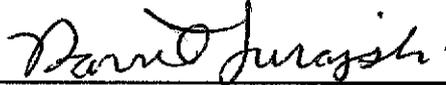
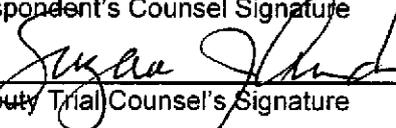
This disposition clearly fits within the Standards and as Respondent's misconduct was much less severe than the two reported cases, no actual suspension time is warranted.

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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.

<u>5-8-08</u> Date	 Respondent's Signature	<u>David Turajski</u> Print Name
<u>5/8/08</u> Date	 Deputy Trial Counsel's Signature	<u>Suzan J. Anderson</u> Print Name

(Do not write above this line.)

In the Matter Of
David Turajski

Case Number(s):
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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 9.18(a), California Rules of Court.)**

05-12-08
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 14, 2008, 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:

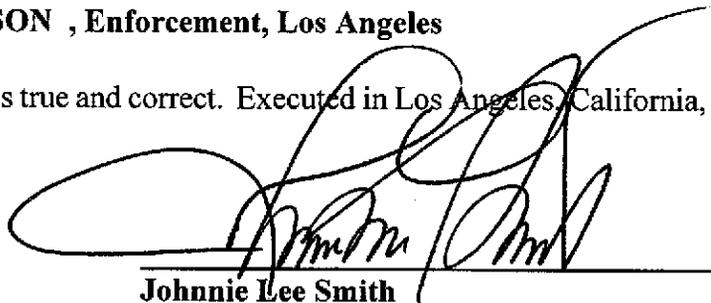
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**DAVID TURAJSKI
CALIFORNIA ESTATE PLANNERS
33000 BOUQUET CANYON RD
SANTA CLARITA, CA 91390**

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

SUZAN ANDERSON , Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on May 14, 2008.



Johnnie Lee Smith
Case Administrator
State Bar Court