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

Counsel For The State Bar Maria J. Oropeza Office of the Chief Trial Counsel 180 Howard Street San Francisco, CA 94105 Bar # 182660		Case Number (s) 07-H-14208	(for Court's use) PUBLIC MATTER FILED  AUG 07 2008 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
Counsel For Respondent Michael Wine 301 N. Lake Ave, Suite 800 Pasadena, CA 91101 Bar # 58657	Submitted to: Assigned Judge		
In the Matter Of: Edward B. Chatoian Bar # 63957 A Member of the State Bar of California (Respondent)	STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <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 **June 27, 1975**.
- (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."
- (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:
(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 **04-O-15379 & 04-O-15849**
 - (b) Date prior discipline effective **March 28, 2006**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **4-100(B)(4); 3-110(A) (two counts) Business and Professions Code section 6068(m) (two counts)**
 - (d) Degree of prior discipline **public reproof**
 - (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:

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 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:
- (b) The above-referenced suspension is stayed.

(2) **Probation:**

Respondent must be placed on probation for a period of **one year**, 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 **thirty days**.
- 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.
- (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:
- | | |
|---|---|
| <input 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:

- (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 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.**

MJD
Haw
 No MPRE recommended. Reason: *Respondent passed MPRE in March, 2008*

- (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.

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- (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: Respondent must submit the law office management plan to the Office of Probation originally due on June 26, 2006, no later than** **The law office**
management plan must be approved by the Office of Probation.

↑
New January 31, 2009
MJD

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Edward B. Chatoian, Bar No. 63957

CASE NUMBER(S): 07-H-14208 ET AL.

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.

Statement of Facts: Count One (Case No. 07-H-14208)

1. Edward B. Chatoian ("respondent") was admitted to the practice of law in the State of California on June 27, 1975, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.

2. Respondent wilfully violated Rules of Professional Conduct, rule 1-110(A), by failing to comply with a condition attached to a public reproof administered by the State Bar pursuant to Business and Professions Code sections 6077 and 6078 and former rule 956 (now rule 9.19), California Rules of Court, as follows:

3. On January 27, 2006, respondent signed a stipulation in which he plead *nolo contendere* to professional misconduct, agreed to receive a public reproof, and agreed to comply with conditions attached to the reproof. The conditions attached to the reproof were specified in the stipulation that respondent signed.

4. On March 8, 2006, acting under the authority of Business and Professions Code section 6077, the State Bar Court of California issued an order imposing a public reproof upon respondent in case number 04-O-15379 [04-O-15849]. Pursuant to California Rule of Court 956, the State Bar Court order required respondent to comply with the stipulated conditions attached to the reproof. The Court found that the stipulation "...protects the public and that the interests of respondent will be served by any conditions attached to the reproof..."

5. The March 8, 2006 State Bar Court order and reproof conditions became final on March 28, 2006, and at all times thereafter have remained in full force and effect. Soon after March 8, 2006, respondent received notice of the State Bar Court order and reproof conditions and at all times pertinent hereto was fully aware of the reproof and the reproof conditions.

6. On March 10, 2006, the Office of Probation mailed respondent a reminder letter setting forth the conditions of the reproof. Respondent received this letter shortly thereafter.

7. One of the conditions of the reproof required respondent to submit quarterly reports as follows:

“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 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.”

8. Respondent failed to submit the quarterly reports due on October 10, 2006, January 10, 2007, April 10, 2007, July 10, 2007, and October 10, 2007.

9. One of the conditions of the reproof required respondent to take and pass the Multistate Professional Responsibility Examination, as follows:

“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 later than 3/31/07.”

10. Respondent failed to take the MPRE by March 31, 2007. Respondent took and passed the MPRE on March 8, 2008.

11. One of the conditions of the reproof required respondent to develop a law office management plan that met certain guidelines and was approved by the Office of Probation, as follows:

“Within 90 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, whom client’s 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.”

12. The public reproof was based upon a statement of facts and conclusions of law indicating that respondent had failed to promptly pay a client, failed to perform competently, failed to respond to client inquiries, and failed to keep a client informed of significant

developments. Therefore, respondent's law office management plan was supposed to address those failings and deficiencies.

13. The 90 day deadline for developing the approved plan expired on June 26, 2006. Respondent violated this condition of his reproof by failing to submit any plan prior to the deadline.

14. Thereafter, on the dates shown below, respondent submitted various versions of a law office management plan. These plans were defective for the reasons set forth below. On or about the dates shown below, the Office of Probation notified respondent that it had rejected the plans and advised respondent as to why the plans were defective. Respondent received each of these rejection notices shortly after it was issued:

Date Submitted	Reason(s) Plan Was Defective
July 10, 2006	<ol style="list-style-type: none"> 1. No procedure was set forth for the sending of periodic reports to clients. 2. No procedure was set forth for the maintenance of files (e.g., the maintenance of an individual file, the maintenance of all files in cabinets, etc.). 3. No procedure was set forth for the withdrawal as attorney, whether of record or not, when clients cannot be contacted or located. 4. No procedure was set forth for the training and supervision of support personnel; and 5. The subject area or deficiency that caused or contributed to respondent's misconduct (i.e., failure to promptly pay a client, failure to perform competently, failure to respond to client inquiries, and failure to keep a client informed of significant developments) was not specifically addressed in the plan.
July 25, 2006	<ol style="list-style-type: none"> 1. The stipulation required the "sending" of periodic reports to clients; whereas the plan called for status reports by telephone call. 2. The stipulation required the establishment of a "procedure" for maintenance of files; whereas the plan provided only generalized information. 3. The subject area or deficiency that caused or contributed to respondent's misconduct (i.e., failure to promptly pay a client, failure to perform competently, failure to respond to client inquiries, and failure to keep a client informed of significant developments) was not specifically addressed in the plan.

Date Submitted	Reason(s) Plan Was Defective
July 26, 2006	The subject area or deficiency that caused or contributed to respondent's misconduct (i.e., failure to promptly pay a client, failure to perform competently, failure to respond to client inquiries, and failure to keep a client informed of significant developments) was not specifically addressed in the plan.
July 31, 2006	The subject area or deficiency that caused or contributed to respondent's misconduct (i.e., failure to promptly pay a client, failure to perform competently, failure to respond to client inquiries, and failure to keep a client informed of significant developments) was not specifically addressed in the plan.

15. Thereafter, respondent submitted no further law office management plans to the Probation Unit. Respondent violated this term of his reproof by failing to submit a law office management plan that met the requirements of the reproof condition.

16. On August 9, 2007, the Probation Office sent respondent a letter reminding him that he was in violation of the above-mentioned probation conditions. Respondent received the letter shortly thereafter, but did not respond or otherwise make further attempts to comply with his reproof conditions.

Conclusions of Law: Count One (Case No. 07-H-14208)

17. By failing to file the quarterly reports due on October 10, 2006, January 10, 2007, April 10, 2007, July 10, 2007, and October 10, 2007, by failing to take the MPRE by the scheduled date of March 31, 2007 and by failing to submit a law office management plan within the 90 day period set forth in the stipulation, respondent failed to comply with a condition attached to a public reproof administered by the State Bar pursuant to Business and Professions Code sections 6077 and 6078 and former rule 956 (now rule 9.19), California Rules of Court, a wilful violation of Rule 1-110(A).

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was July 24, 2008.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of July 24, 2008, the costs in this matter are \$ 3654.00. 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.

AUTHORITIES SUPPORTING DISCIPLINE.

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

Respondents who violate reproof conditions customarily receive sixty or ninety days of actual suspension, plus one or two years of stayed suspension (*In the Matter of Meyer* (Review Dept., 1997) 3 Cal. State Bar Court. Rptr. 697 (90-day actual suspension; two years stayed); *Conroy v. State Bar* (1990) 51 Cal.3d 799 (60-day actual suspension; one year stayed); *In the Matter of Stansbury* (2000) 4 Cal. State Bar Ct. Rptr. 103 (90-day suspension "and until" restitution paid). Respondent's case can be distinguished from *Conroy*, *Stansbury*, and *Meyer*, since each of those respondents defaulted or did not appear for their State Bar Court trials. Also *Meyer* had a record of prior discipline that included two private reprovals.

The only reported case in which suspension was not imposed for a reproof violation was *In the Matter of Posthuma* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 813 (public reproof).

AGGRAVATING CIRCUMSTANCES.

Prior Discipline: A public reproof was imposed on respondent on March 28, 2006.

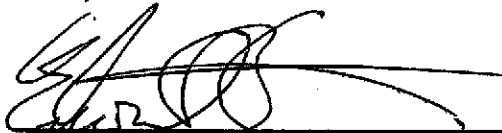
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In the Matter of Edward B. Chatoian	Case number(s): 07-H-14208
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SIGNATURE OF THE PARTIES

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.

7/28/08
Date


Respondent's Signature

Edward B. Chatoian
Print Name

7/30/08
Date


Respondent's Counsel Signature

Michael Wine
Print Name

8/1/08
Date


Deputy Trial Counsel's Signature

Maria J. Oropeza
Print Name

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In the Matter Of Edward B. Chatoian	Case Number(s): 07-H-14208
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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.

On page 2, section B(1)(b) –Respondent’s prior discipline was effective March 29, 2006.

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.)**

August 6, 2008

Date


Pat E. McElroy
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 San Francisco, on August 7, 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 San Francisco, California, addressed as follows:

MICHAEL E. WINE
301 N LAKE AVE SUITE 800
PASADENA, CA 91101


- by certified mail, No. _____, with return receipt requested, through the United States Postal Service at <select city>, California, addressed as follows:

- by overnight mail at <select city>, California, addressed as follows:

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

MARIA J. OROPEZA, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on August 7, 2008.


George Hus
Case Administrator
State Bar Court