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State Bar Court of California
Hearing Department

Counsel For The State Bar Brandon K. Tady 1149 South Hill Street Los Angeles, California 90015-2299 Bar # 83045	Case Number (s) 07-O-10914-RAH PUBLIC MATTER	(for Court's use) FILED OCT 01 2008  STATE BAR COURT CLERK'S OFFICE LOS ANGELES
In Pro Per Respondent Patrick J. Manshardt 1 Bunker Hill Building 601 W. 5 th St., 8 th Floor Los Angeles, California 90071 Bar # 178085	Submitted to: Assigned Judge	
In the Matter Of: Patrick J. Manshardt Bar # 178085 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 **December 1, 1995**.
- (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
 - (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:

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. **Respondent was admitted to practice on December 1, 1995, and he does not have a record of prior State Bar discipline.**
- (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 **two 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 **two 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 **60 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.**
 - 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

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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:**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Patrick J. Manshardt

CASE NUMBER(S): 07-O-10914-RAH

FACTS AND CONCLUSIONS OF LAW.

Respondent admits the following facts are true and he is culpable of the violations of the specified statutes.

Case number 07-O-10914-RAH.

FACTS

1. Respondent failed to comply with the Mandatory Continuing Legal Education (“MCLE”) requirements by January 31, 2006.
2. On August 18, 2006, the State Bar of California (“State Bar”) Office of Certification mailed a letter to Respondent entitled “MCLE Non-Compliance Final Notice” and informed Respondent that if he failed to provide proof of compliance with the MCLE requirements by September 15, 2006, he would be enrolled on “not eligible” status and not be permitted to practice law until he complied with the MCLE requirements. Respondent received the letter of August 18, 2006.
3. Respondent failed to provide the State Bar with proof of compliance with MCLE requirements by September 15, 2006.
4. On September 18, 2006, Respondent was enrolled on “not eligible” status because of his non-compliance with MCLE requirements. Respondent remained enrolled on “not eligible” status until March 14, 2007, when he complied with MCLE requirements.
5. On September 25, 2006, the State Bar’s Office of Certification sent a letter to Respondent entitled “MCLE Non-Compliance Notice of Enrollment on Not Eligible Status” informing him that he had been enrolled on “not eligible” status effective September 18, 2006 and that he was not entitled to practice law because of his non-compliance with MCLE requirements. Respondent received the September 25, 2006 letter.
6. Respondent remained on “not eligible” status until March 14, 2007.

7. On February 22, 2007, Gieng Michael Phat (“Phat”) employed Respondent to represent him in the civil complaint filed by Paul Nguyen in the matter of *Paul Nguyen vs. Tran Van Nho and Gieng Michael Phat*, San Bernardino County Superior Court case number RCV099318 (“Nguyen Action”).

8. On or about March 1, 2007, while Respondent was still “not eligible” to practice law, Respondent signed, as Phat’s attorney of record, a motion to set aside a default judgment (“Motion”) obtained by Nguyen against Phat in the Nguyen Action. Respondent caused the Motion to be filed with the Court.

9. At the time Respondent filed the Motion, Respondent knew that he was not eligible to practice law.

10. By signing the Motion, Respondent misrepresented to the Court that he was entitled to practice law when he knew that he was not entitled to practice law.

11. On March 19, 2007, an investigator with the State Bar wrote to Respondent regarding a State Bar complaint made by Paul Nguyen (“Nguyen Complaint”). The State Bar asked Respondent to respond to specified allegations of misconduct in the Nguyen Complaint. Respondent received this letter, but did not respond to it.

12. On April 6, 2007, an investigator with the State Bar again wrote to Respondent regarding the Nguyen Complaint. The State Bar again asked Respondent to respond to specified allegations of misconduct in the Nguyen Complaint. Respondent received this letter, but did not respond to it.

LEGAL CONCLUSIONS

By accepting legal employment and signing and causing to be filed the Motion to Set Aside the Default Judgment as Phat’s attorney of record, Respondent held himself out as entitled to practice law and actually practiced law when he was not entitled to do so, in wilful violation of Business and Professions Code sections 6125 and 6126, and thereby failed to support the laws of the State of California in violation of Business and Professions Code, section 6068 (a).

By accepting legal employment and by signing and causing to be filed the Motion to Set Aside the Default Judgment when he knew he was not entitled to practice law, Respondent committed an act or acts involving moral turpitude, dishonesty, or corruption, in wilful violation of Business and Professions Code, section 6106.

By misrepresenting to the Court that he was entitled to practice law when he knew he was not entitled to practice law, Respondent committed acts involving moral turpitude, dishonesty, or corruption in wilful violation of Business and Professions Code, section 6106.

By not providing a written response to the State Bar's investigator's letters regarding the allegations in the Nguyen Complaint, Respondent failed to cooperate in a disciplinary investigation in wilful violation of Business and Professions Code, section 6068 (i).

AGGRAVATING CIRCUMSTANCES.

None.

MITIGATING CIRCUMSTANCES.

Respondent was admitted to the State Bar on December 1, 1995 and does not have a record of prior discipline. Respondent's misconduct is serious; but, the State Bar acknowledges that *In the Matter of Stamper* (Review Department 1990) 1 Cal. State Bar Ct. Rptr. 96, 106, the Review Department held that Standard 1.2 (e) (i) has been repeatedly applied by the Supreme Court in cases involving serious misconduct.

AUTHORITIES SUPPORTING DISCIPLINE

Standard 1.3 provides that the primary purpose of disciplinary proceedings are protection of the public, the courts, and the legal profession, the maintenance of high professional standards by attorneys, and preservation of public confidence in the legal profession.

Standard 1.6 (a) provides that where two or more acts of misconduct are acknowledged in a single disciplinary proceeding, and different standards are prescribed for said acts, the sanction imposed shall be the more severe of the different applicable sanctions.

Counts Two and Three of the Notice of Disciplinary Charges allege that Respondent engaged in acts of moral turpitude by knowingly engaging in the unauthorized practice of law and by misrepresenting to the Court that he was eligible to practice law.

Standard 2.3 provides that the culpability of a member of an act of moral turpitude, fraud, or intentional dishonesty toward a court, client, or another person or of concealment of a material fact to a court, client, or another person shall result in actual suspension or disbarment depending on the extent to which the victim of the misconduct is harmed or misled and depending on the magnitude of the act of misconduct and the degree to which it relates to the member's acts within the practice of law. The minimum level of discipline required by Standard 2.3 is actual suspension.

In *In re Ivan O. B. Morse* (1995) 11 Cal. 4th 184 ("*In re Morse*"), the Court describe the method for determining the appropriate level of discipline. The Court stated:

“We begin by looking to the purpose of sanctions for attorney misconduct....In deciding the appropriate discipline ,we consider the underlying misconduct and aggravating and mitigating circumstances, if any.... To determine the appropriate level of discipline after these facts are established, we, like the review department, must look to the standards for guidance.... We note that because the applicable standards allow such a wide range of discipline, the review department properly looked to decisional law for guidance....In light of the lack of specificity of the applicable standards, we must use as our lodestar the purposes of discipline as set forth above [Standard 1.3] (P. 205, ante). *In re Morse*, supra, 11 Cal. 4th at pp. 205-207).

The Court will not reject a recommendation based on the standards unless the attorney can show an extraordinary circumstances justifying a lesser sanction or that the Court should have “...grave doubts about the propriety...” of the requested discipline. (*In re Silverton* (2005) 36 Cal. 4th at page 92).

In *In the Matter of Mason* (Review Department 1997), 3 Cal. State Bar Ct. Rptr. 639, respondent Mason made a court appearance during the time he was actually suspended from the practice of law. The Court found respondent culpable for violating B & P Code, sections 6068 (a) and 6106. The Review Department recommended discipline of three years suspension stayed, three years probation, and 90 days actual suspension. Respondent Mason had one prior record of discipline.

In *In the Matter of Trousil* (Review Department 1990) 1 Cal. State Bar Ct. Rptr. 229, respondent Trousil was actually suspended for 30 days for accepting employment from a client and appearing in bankruptcy court while suspended. Respondent Trousil had one prior record of discipline and significant circumstances in mitigation.

WAIVER OF VARIANCE BETWEEN NOTICE OF DISCIPLINARY CHARGES AND STIPULATED FACTS AND CULPABILITY.

The parties waive any variance between the Notice of Disciplinary Charges filed on December 10, 2007, and the facts and conclusions contained in this stipulation. Additionally, the parties waive the issuance of an amended Notice of Disciplinary Charges. The parties further waive the right to a formal hearing on any charge not included in the pending Notice of Disciplinary Charges.

PENDING PROCEEDINGS.

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

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of September 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

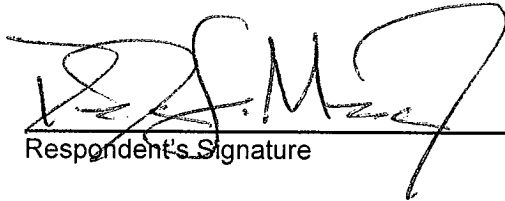
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In the Matter of Patrick J. Manshardt	Case number(s): 07-O-10914
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SIGNATURE OF THE PARTIES

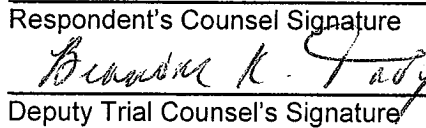
By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Fact, Conclusions of Law and Disposition.

9/29/08
Date


Respondent's Signature

PATRICK MANSHARDT
Print Name

9/29/08
Date


Respondent's Counsel Signature
Deputy Trial Counsel's Signature

BRANDON K. TADY
Print Name

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In the Matter Of Patrick J. Manshardt	Case Number(s): 07-O-10914
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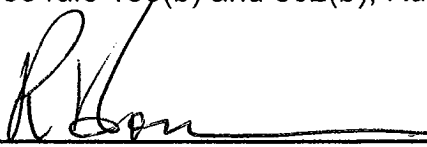
ORDER

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 stipulation as to facts and conclusions of law is APPROVED.
- The stipulation as to facts and conclusions of law is APPROVED AS MODIFIED as set forth below.
- All court dates in the Hearing Department are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation; or 3) Respondent is not accepted for participation in the Program or does not sign the Program Contract. (See rule 135(b) and 802(b), Rules of Procedure.)

10-1-08
Date



Judge of the State Bar Court
RICHARD A. HONN

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 October 1, 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:

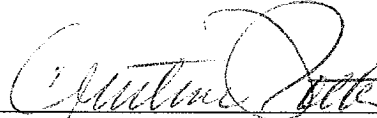
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

PATRICK J. MANSHARDT
1 BUNKER HILL BLDG
601 W 5TH ST 8FL
LOS ANGELES, CA 90071

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

Brandon Keith Tady, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 1, 2008.



Cristina Potter
Case Administrator
State Bar Court