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| State Bar Court of California<br>Hearing Department<br>Los Angeles   |  |  |
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| Counsel For The State Bar<br><br><b>Terrie Goldade</b><br>1149 S. Hill St.<br>Los Angeles, CA 90015<br>(213) 765-1494<br><br>Bar # 155348        | Case Number (s)<br><b>07-PM-13676-RAP</b>  | (for Court's use)<br><br><b>FILED</b><br><br>DEC 11 2007<br><br>STATE BAR COURT<br>CLERK'S OFFICE<br>LOS ANGELES |
| In Pro Per Respondent<br><br><b>Mark Edward Madison</b><br>1440 N Harbor Blvd. #900<br>Fullerton, CA 92835<br>(714) 449-3365<br><br>Bar # 158786 | Submitted to: <b>Assigned Judge</b>  |  |
| In the Matter Of:<br><b>Mark Edward Madison</b><br><br>Bar # 158786<br><br>A Member of the State Bar of California<br>(Respondent)               | STIPULATION RE FACTS, CONCLUSIONS OF LAW AND<br>DISPOSITION AND ORDER APPROVING<br><br>PROBATION VIOLATION—"PM" PROCEEDING<br><br><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 8, 1992**.
- (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 **9** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."

- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- costs added to membership fee for calendar year following effective date of discipline (no actual suspension).
  - 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 (actual suspension).
  - 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 **05-O-01797/S146415**
  - (b)  Date prior discipline effective **December 15, 2006**
  - (c)  Rules of Professional Conduct/ State Bar Act violations: **Rules of Professional Conduct, rules 3-110(A), 3-700(D)(1), 4-100(A), and 4-100(C); Business and Professions Code section 6106**
  - (d)  Degree of prior discipline **one year, stayed, two years probation (no actual)**
  - (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. **Respondent's failure to contact the Office of Probation and file CPA reports and quarterly reports evidences multiple acts of wrongdoing.**

- (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. **On February 23, 2004, Respondent's minor son Myles was diagnosed with Chronic Myeloid Leukemia. In or about the last week of January 2007 and on October 1, 2007, Myles required bone marrow aspiration. While Myles is currently managed on oral chemotherapy, he can at any moment require a bone marrow transplant. Consequently, Respondent took two trips to South America (in March 2007 and June 2007) to meet with and interview potential bone marrow donors. Myles is currently in molecular remission, but takes medication daily.**

**In May 2005, Respondent's wife was diagnosed with breast cancer and underwent four surgeries and chemotherapy. She currently suffers from a debilitating hip problem that is a side effect of her chemotherapy.**

**In August 2007, Respondent's father underwent surgery and one-third of his lung was removed. Respondent has participated, and continues to participate, in the care of his son, wife, and father.**

- (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)  **No mitigating circumstances** are involved.

**Additional mitigating circumstances:**

**D. Discipline (choose only one):**

- (1)  **Probation extended:** Respondent's probation in \_\_\_\_\_ is extended for \_\_\_\_\_.
- (2)  **Probation revoked; Probation Reinstated; Actual Suspension:** Respondent's probation is revoked and reinstated for two years on the same terms and conditions as previously imposed in **05-O-01797/S146415**. The terms of probation remain the same as in the prior order except as indicated below. In addition, Respondent must be actually suspended from the practice of law for **sixty days**.
- (3)  **Probation revoked; Probation Reinstated; No Actual Suspension:** Respondent's probation is revoked and reinstated for \_\_\_\_\_ on the same terms and conditions as previously imposed in \_\_\_\_\_. The terms of probation remain the same as in the prior order except as indicated below.
- (4)  **Probation revoked; Probation not Reinstated; Actual Suspension:** Respondent's probation is revoked. Respondent must be suspended from the practice of law for \_\_\_\_\_.

**E. In addition to conditions previously imposed by the Supreme court in its prior order, the following new conditions are recommended by this stipulation:**

- (1)  During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2)  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.
- (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 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 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)  **Probation Conditions Deleted or Modified:** \_\_\_\_\_ :
- (2)  **Rule 9.20, California Rules of Court:** Respondent must comply with the provisions of subdivisions (a) and (c) of rule 9.20, California Rules of Court, within 30 and 40 days, respectively, from the effective date of the Supreme Court order herein.
- (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 provisions of subdivisions (a) and (c) of rule 9.20, California Rules of Court, within 120 and 130 days, respectively, from the effective date of the Supreme Court order herein.

Attachment language (if any):

**FACTS AND CONCLUSIONS OF LAW.**

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

1. On July 5, 2006, Respondent executed a Stipulation re Facts, Conclusions of Law and Disposition with the State Bar in State Bar Court Case No. 05-O-01797 ("Stipulation"). The Hearing Department of the State Bar Court filed an order approving the Stipulation on July 28, 2006.
2. On November 15, 2006, the California Supreme Court filed an Order in Case No. S146415 (State Bar Court Case No. 05-O-01797) that Respondent be suspended from the practice of law for a period of one year, that execution of suspension be stayed and that Respondent be placed on probation or a period of two years subject to the conditions of probation as recommended by the Hearing Department of the State Bar Court in its order approving the Stipulation filed on July 28, 2006. Respondent was ordered to comply with the following terms and conditions of probation, among others:
  - a. As a condition of probation, Respondent was ordered to contact the Office of Probation within 30 days from the effective date of discipline and schedule a meeting with his assigned probation deputy to discuss the terms and conditions of his probation. Respondent was late in doing so. He was to contact the Office of Probation on January 14, 2007, but did not do so until November 1, 2007.
  - b. As a condition of probation, Respondent was ordered to comply with the Rules of Professional Conduct and the State Bar Act and report such compliance quarterly under penalty of perjury ("quarterly report"). Respondent filed his first three quarterly reports late: his reports due April 10, 2007, July 10, 2007, and October 10, 2007 were filed on November 26, 2007.
  - c. As a condition of probation, Respondent was ordered to comply with the "Client Funds Certificate" condition. If Respondent possessed client funds at any time during the period covered by a required quarterly report, Respondent was required to file with each required report a certificate from a certified public account certifying specified conditions had been met or state under penalty of perjury that he did not possess any client funds, property or securities during the entire period covered by the report ("CPA report"). Respondent filed his first three CPA reports late: his reports due April 10, 2007, July 10, 2007, and October 10, 2007 were filed on November 21, 2007.
3. On January 3, 2007, the Office of Probation mailed an initial letter to Respondent at his membership records address outlining the terms and condition of his probation. Respondent received the letter
4. On May 8, 2007, the Office of Probation mailed a letter to Respondent at his membership

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records address advising him that his first quarterly report was due April 10, 2007 but was not received. A copy of the initial letter dated January 3, 2007 was enclosed for Respondent's reference. Respondent received the letter.

5. On April 13, 2007, the Office of Probation telephoned Respondent with the intent of discussing, among other things, his failure to submit his quarterly report due April 10, 2007 and his failure to contact me to schedule a meeting to discuss the terms and conditions of his probation. A message requesting a return call was left for Respondent.

6. On October 12, 2007, Respondent submitted CPA reports for April 10, 2007, July 10, 2007, and October 10, 2007. They could not be filed because they were defective.

By failing to timely contact and schedule an initial meeting with the Office of Probation by January 14, 2007; by failing to timely file his Quarterly Reports due April 10, 2007, July 10, 2007, and October 10, 2007; and by failing to timely file his CPA reports due April 10, 2007, July 10, 2007, and October 10, 2007, Respondent wilfully violated Business and Professions Code, section 6068(k).

#### **PENDING PROCEDURES.**

The disclosure date referred to, on page one, paragraph A.(7) was November 19, 2007

#### **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of Probation has informed respondent that as of November 19, 2007, the estimated prosecution costs in this matter are approximately \$1,546. Respondent acknowledges that this figure is an estimate only and that it does not include State Bar Court costs which will be included in any final cost assessment. 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 2.6, subsection (a), states that culpability of a member of a violation of Business and Professions Code, section 6068(k), shall result in disbarment or suspension depending upon 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.

An attorney who violated his probation by failing to timely complete restitution and by failing to timely attend Ethics School, received two years' probation with a condition that the first 30 days he be actually suspended. *In the Matter of Gorman* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 567. Neither bad purpose nor intentional evil is required to establish willful violations of disciplinary probation. *Id.* at 572. An attorney's cooperation in stipulating to facts warrants some mitigative consideration. *Id.* More serious sanctions are assigned to probation violations closely related to reasons for imposition of previous discipline or to rehabilitation. *Id.* at 573-574.

In this matter, Respondent's underlying disciplinary violation was in relation to failing to maintain in trust \$3,432 on behalf of his client Holly Richards. He failed to maintain a sufficient record which would have revealed the deposit and sum held on behalf of Richards. By failing to be aware of the funds held on behalf of Richards to reimburse an insurance company, Respondent subjected her to potential liability. Respondent also failed to promptly release Richards' file. As part of his disciplinary probation, Respondent was ordered to meet with the Office of Probation, file quarterly reports, and file CPA reports. These disciplinary conditions were related to his original misconduct, important for his rehabilitation, and were intended to assist the State Bar in monitoring Respondent's rehabilitation. However, in light of Respondent's mitigation set forth above, the Office of Probation is willing to request suspension in relation to standard 2.6 based upon Respondent's belated compliance, his stipulation to his violations, and his agreement to reinstate his probation.

#### **OTHER CONDITIONS NEGOTIATED BY THE PARTIES.**

The parties stipulate to waive any variance in the language, allegations, and conclusions of law between this stipulation and the Notice of Motion and Motion to Revoke Probation filed on September 17, 2007. Respondent acknowledges that this stipulation contains language, allegations, and conclusion of law which differ from the language, allegations, and conclusions of law contained in the Notice of Motion and Motion to Revoke Probation filed on September 17, 2007. The parties further stipulate to waive the right to have any amendment to the Notice of Motion and Motion to Revoke Probation.

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|---|------------------------------------|
| In the Matter of<br>Mark Edward Madison | Case number(s):<br>07-PM-13676-RAP |
|---|------------------------------------|

### 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.

11/26/07  
Date

Mark E Madison  
Respondent's Signature

Mark Edward Madison  
Print Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Respondent's Counsel Signature

\_\_\_\_\_  
Print Name

11/26/07  
Date

Terrie Goldade  
Deputy Trial Counsel's Signature

Terrie Goldade  
Print Name

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| In the Matter Of<br><b>Mark Edward Madison</b> | Case Number(s):<br><b>07-PM-13676-RAP</b> |
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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.)**

12/04/07  
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 December 11, 2007, 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:

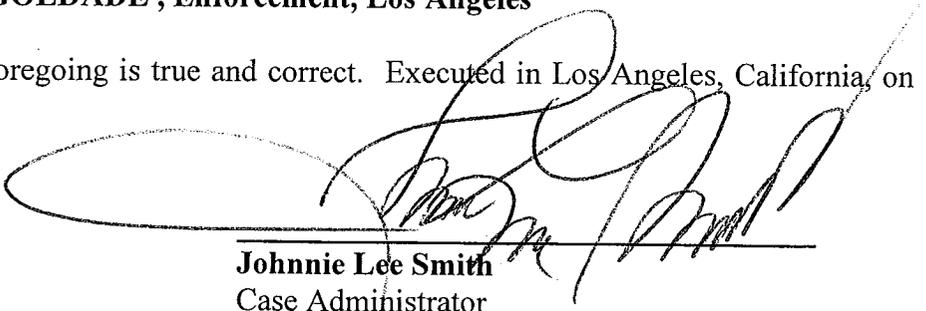
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**MARK E. MADISON  
1440 N HARBOR BLVD #900  
FULLERTON, CA 92835**

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

**TERRIE GOLDADE , Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **December 11, 2007.**

  
\_\_\_\_\_  
**Johnnie Lee Smith**  
Case Administrator  
State Bar Court