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State Bar Court of California
Hearing Department
San Francisco

Counsel For The State Bar	Case Number (s)	(for Court's use)
Erica Dennings Deputy Trial Counsel 180 Howard St., 7th Fl. San Francisco, CA 94105 Telephone: (415) 538-2285 Bar # 145755	08-C-11139-LMA PUBLIC MATTER	FILED JAN 21 2010 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
Counsel For Respondent Ephraim Margolin Law Offices of Ephraim Margolin 240 Stockton St., #400 San Francisco, CA 94108 Telephone: (415) 421-4347 Bar # 32582	Submitted to: **Settlement Judge** STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING	
In the Matter Of: EDNA R. WALZ Bar # 64697 A Member of the State Bar of California (Respondent)	**PUBLIC REPROVAL** ☐ 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 26, 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 11 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."

(Do not write above this line.)

(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 (public reproval)
- ☐ case ineligible for costs (private reproval)
- ☐ costs to be paid in equal amounts 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

(9) The parties understand that:

(a) ☐ A private reproval imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's officials State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproval was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidents of a prior record of discipline under the Rules of Procedure of the State Bar.

(b) ☐ A private reproval imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

(c) ☒ A public reproval imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

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.

(Do not write above this line.)

(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. See attached.

(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. See attached.

(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. See attached.

(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. See attached.

(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.

(Do not write above this line.)

(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. See attached

(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:

See attached.

D. Discipline:

(1) ☐ **Private reproval (check applicable conditions, if any, below)**

(a) ☐ Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).

(b) ☐ Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).

or

(2) ☒ **Public reproval (Check applicable conditions, if any, below)**

E. Conditions Attached to Reproval:

(1) ☒ Respondent must comply with the conditions attached to the reproval for a period of .

(2) ☒ During the condition period attached to the reproval, 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 condition period attached to the reproval. 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 reproval 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 following quarter date, and cover the extended period.

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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.

(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 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 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 conditions attached to the reproval.

(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) ☐ 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 reproval.

☒ No MPRE recommended. Reason:

(11) ☒ The following conditions are attached hereto and incorporated:

☒ Substance Abuse Conditions ☐ Law Office Management Conditions

☐ Medical Conditions ☐ Financial Conditions

F. Other Conditions Negotiated by the Parties:

Attachment language (if any):

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: **EDNA R. WALZ**

CASE NUMBER(S): **08-C-11139**

FACTS AND CONCLUSIONS OF LAW.

Procedural Background: This is a proceeding pursuant to sections 6101 and 6102 of the Business and Professions Code and rule 951 of the California Rules of Court. On March 16, 2009, respondent pled guilty to a misdemeanor violation of one count of Vehicle Code section 23153(b), driving while having a .08% or higher blood alcohol, with an admitted allegation re: Vehicle Code section 23578, driving while having a .15% or higher blood alcohol. On July 7, 2009, the Review Department of the State Bar issued an order referring the matter to the Hearing Department for a hearing and decision recommending the discipline to be imposed in the event that the facts and circumstances surrounding the conviction involved moral turpitude or other misconduct warranting discipline.

Facts: On January 13, 2008, while driving on a street in Sacramento, respondent struck a guardrail and the guardrail then impacted the left leg of a bicyclist in the adjacent bicycle lane. Respondent was arrested for driving under the influence. Respondent's blood alcohol level was .19% at the time she took the blood test ninety minutes after the accident. The blood was later retested and determined to be .17%. A half empty bottle of vodka was recovered from respondent's car. Respondent admitted drinking a half pint of vodka earlier in the day, prior to the accident. On February 20, 2008, respondent was charged by complaint with felony violations of Vehicle Code section 23153(a), driving while intoxicated, and Vehicle Code section 23152(b), driving while having a .08% or higher blood alcohol with the further allegation re: Vehicle Code section 23578, driving while having a .15% or higher blood alcohol. On November 4, 2008, respondent was charged by amended complaint with felony violations of Vehicle Code sections 23153(a) and 23153(b), with the addition of an enhancement of Section 12022.7(a) of the Penal Code as to both Counts One and Two. On March 16, 2009, respondent pled guilty to a misdemeanor violation of one count of Vehicle Code section 23153(b) and admitted the further allegation re: Vehicle Code section 23578, driving while having a .15% or higher blood alcohol. Respondent was sentenced to informal probation for four years, ordered to serve 120 days in jail, and placed on home detention. Respondent was further ordered to enroll in the First Offender DUI program. Her driving privilege was suspended for one year. After the accident, the bicyclist was taken to the hospital, x-rayed, and released. The victim had a minimally displaced fracture of the lateral tibial plateau which did not require hospitalization or operative treatment. A follow up visit found that the fracture

had healed well with a slight irregularity of the joint surface. The bicyclist has returned to work.

Conclusions of Law: The facts and circumstances surrounding Respondent's violation of California Vehicle Code section 23153(b) do not involve moral turpitude, but do involve other conduct warranting discipline. Respondent acknowledges that by the conduct described herein, she willfully violated Business and Professions Code section 6068(a).

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A. (6) was January 5, 2010.

AGGRAVATING CIRCUMSTANCES.

Harm: Respondent caused bodily injury to the bicyclist.

MITIGATING CIRCUMSTANCES.

Facts Supporting Mitigating Circumstance:

No Prior Discipline: Although the misconduct herein is serious, respondent was admitted to the practice of law in California on June 26, 1975 and has no prior record of discipline.

Candor and cooperation: Respondent has been candid and cooperative with the State Bar during the disciplinary proceedings.

Good character: Respondent has provided nine letters of reference from a wide range of people in the legal and general communities who are aware of the full extent of her misconduct, the aberrant nature of this lapse of judgment, and her remorse from this incident.

ADDITIONAL MITIGATING CIRCUMSTANCES.

Compliance with Criminal Probation: Respondent has remained in full compliance with her criminal probation since her conviction. She has completed her 120 day jail/home detention term. She completed the First Offender DUI program.

Rehabilitation: The accident occurred in January 2008. Since that time, respondent has participated in therapy and attended AA meetings as well as the Other Bar meetings. She has completed the first offender DUI program. She has not consumed alcohol since the accident.

AUTHORITIES SUPPORTING DISCIPLINE.

Standards for Attorney Sanctions for Professional Misconduct 1.2(e)(i), 1.2(v), 1.2(v), 2.6(a), 3.4; *In re Kelley* (1990) 52 Cal.3d 487; and see generally *In Re Silverton* (2005) 36 Cal.4th 81.

COMPLIANCE WITH CONDITIONS OF PROBATION IN UNDERLYING CRIMINAL MATTERS.

Respondent shall comply with all conditions of her probation that were imposed in the underlying criminal matters, and shall so declare under penalty of perjury in conjunction with any quarterly report required to be filed with the State Bar Office of Probation.

STATE BAR ETHICS SCHOOL.

Respondent has agreed to attend State Bar Ethics School as part of this stipulation; therefore, she may receive Minimum Continuing Legal Education credit toward her required number of MCLE credits.

ELECTION NOT TO REQUEST STATE BAR COURT'S ALTERNATIVE DISCIPLINE PROGRAM.

By signing this stipulation, Respondent acknowledges that she was provided information about the State Bar Court's Alternative Discipline Program, that she was offered the opportunity to request referral to and participation in that program, and that she has elected not to do so.

In the Matter of EDNA R. WALZ (#64697)	Case number(s): 08-C-11139-LMA

Substance Abuse Conditions

a. ☒ Respondent must abstain from use of any alcoholic beverages, and shall not use or possess any narcotics, dangerous or restricted drugs, controlled substances, marijuana, or associated paraphernalia, except with a valid prescription.

b. ☐ Respondent must attend at least 4 meetings per month of:

☐ Alcoholics Anonymous

☐ Narcotics Anonymous

☐ The Other Bar

☒ Other program **ATTENDANCE AT ABSTINENCE BASED GROUP**

Respondent shall attend at least twelve (4) meetings per month (at least one meeting per week) of an abstinence based self-help group of her own choosing, including, inter alia, Alcoholics Anonymous, Narcotics Anonymous, Life Ring, S.M.A.R.T., S.O.S. Other self-help maintenance programs are acceptable if they include: (i) a subculture to support recovery (meetings); and (ii) a process of personal development that does not have financial barriers. (See O'Conner v. California (C.D. Calif. 1994) 855 F. Supp 303 [No first amendment violation where probationer given choice between AA and secular program].) The program called "Moderation Management" is not acceptable because it allows participants to continue to consume alcohol.

Before respondent attends the first self help group meeting, she shall contact the Office of Probation and obtain approval for the program that she has selected. Thereafter, on a quarterly basis with her quarterly and final written reports, respondent shall provide documentary proof of attendance at themeetings of the approved program to the Office of Probation, in a form acceptable to the Office of Probation.

As a separate reporting requirement, Respondent must provide to the Office of Probation satisfactory proof of attendance during each month, on or before the tenth (10th) day of the following month, during the condition or probation period.

c. ☒ Respondent must select a license medical laboratory approved by the Office of Probation. Respondent must furnish to the laboratory blood and/or urine samples as may be required to show that Respondent has abstained from alcohol and/or drugs. The samples must be furnished to the laboratory in such a manner as may be specified by the laboratory to ensure specimen integrity. Respondent must cause the laboratory to provide to the Office of Probation, at the Respondent's expense, a screening report on or before the tenth day of each month of the condition or probation period, containing an analysis of Respondent's blood and/or urine obtained not more than ten (10) days previously.

d. ☒ Respondent must maintain with the Office of Probation a current address and a current telephone number at which Respondent can be reached. Respondent must return any call from the Office of Probation concerning testing of Respondent's blood or urine within twelve (12) hours. For good cause, the Office of Probation may require Respondent to deliver Respondent's urine and/or blood sample(s) for additional reports to the laboratory described above no later than six hours after actual notice to Respondent that the Office of Probation requires an additional screening report.

e. ☒ Upon the request of the Office of Probation, Respondent must provide the Office of Probation with medical waivers and access to all of Respondent's medical records. Revocation of any medical waiver is a violation of this condition. Any medical records obtained by the Office of Probation are confidential and no information concerning them or their contents will be given to anyone except members of the Office of Probation, Office of the Chief Trial Counsel, and the State Bar Court who are directly involved with maintaining, enforcing or adjudicating this condition.

(Do not write above this line.)

In the Matter of	Case number(s):
EDNA R. WALZ (#64697)	08-C-11139-LMA

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.

Jan 6, 2010	Edna R Walz	Edna Raynor Walz
Date	Respondent's Signature	Print Name
Jan 6, 2010		Eric Margolis
Date	Respondent's Counsel Signature	Print Name
January 7, 2010	Erica L. M. Dennings	Erica L. M. Dennings
Date	Deputy Trial Counsel's Signature	Print Name

(Do not write above this line.)

In the Matter Of **Edna R. Walz (#64697)**	Case Number(s): **08-C-11139**

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:

- [x] 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.)**

Jan 21, 2010
Date

Pat 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 January 21, 2010, 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:

EPHRAIM MARGOLIN
LAW OFFICE OF EPHRAIM MARGOLIN
240 STOCKTON STREET, 4TH FL.
SAN FRANCISCO, CA 94108 - 5318

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

ERICA DENNINGS, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on January 21, 2010.

Laine Silber

Laine Silber
Case Administrator
State Bar Court