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**State Bar Court of California
Hearing Department
San Francisco
ALTERNATIVE DISCIPLINE PROGRAM**

Counsel For The State Bar Susan Chan Deputy Trial Counsel 180 Howard Street San Francisco, CA 94105 Bar # 233229	Case Number (s) 08-H-10868	(for Court's use) <div style="text-align: center; font-size: 2em; font-weight: bold;">PUBLIC MATTER</div> <div style="text-align: center; font-size: 1.5em; font-weight: bold;">FILED </div> <div style="text-align: center;">AUG 3 1 2009</div> <div style="text-align: center;">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</div>
Counsel For Respondent Vicky Young Law Offices of Ephraim Margolin 240 Stockton Street, Suite 400 San Francisco, CA 94108 Bar # 73261	Submitted to: Assigned Judge STIPULATION RE FACTS AND CONCLUSIONS OF LAW <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter Of: Michael A. Gulla Bar # 80133 A Member of the State Bar of California (Respondent)		

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 23, 1978**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, except as otherwise provided in rule 804.5(c) of the Rules of Procedure, if Respondent is not accepted into the Alternative Discipline Program, this stipulation will be rejected and will not be binding on the Respondent or the State Bar.
- (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, except for Probation Revocation proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **8** pages, excluding 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) 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.



- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7 and will pay timely any disciplinary costs imposed in this proceeding.

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-C-04115 - PEM, et al**
- (b) Date prior discipline effective **October 9, 2007**
- (c) Rules of Professional Conduct/ State Bar Act violations: **Business and Professions Code section 6068(a)**
- (d) Degree of prior discipline **Public Reproval including probation conditions.**
- (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.

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- (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. **Respondent has displayed candor and cooperation to the State Bar during the 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. **Respondent completed a 90-day treatment program at the Betty Ford Center. Respondent is currently residing in a sober living facility in Southern California.**
- (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:

At all relevant times, respondent's current office address as maintained on the official membership records of the State Bar of California, referred to herein as the "Chinowth Rd. address," was: Kloster Ruddell, et al., 1102 N. Chinowth Rd., #A, Visalia, CA 93291-4113.

By at least on or about November 27, 2007, respondent was no longer reachable at the Chinowth Rd. address and had otherwise ceased receiving mail at the Chinowth Rd. address. Respondent did not report to the Membership Records Office and to the Office of Probation his change in contact information within 10 days as required by section 6002.1 of the Business and Professions Code. On or about May 20, 2008, after the Notice of Disciplinary Charges in State Bar Case No. 08-H-10868 was filed, did respondent update his official membership records address to 1375 N. Academy Ave., Sanger, CA 93657.

One of the conditions of reprobation required respondent to contact the Office of Probation for an initial meeting as follows:

"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."

The terms of respondent's public reprobation imposed by the State Bar Court became effective on or about October 9, 2007, and remained in full force and effect at all times thereafter. Respondent was required to contact the Office of Probation by November 8, 2007, for a meeting to discuss the terms and conditions of his reprobation. However, respondent did not do so by said date or at any time thereafter.

One of the conditions of reprobation 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 reprobation. 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 reprobation 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."

"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."

One of the conditions of reprobation provided as follows:

"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."

One of the conditions of reproof provided as follows:

“Respondent must obtain psychiatric or psychological help/treatment from a duly licensed psychiatrist, psychologist, or clinical social worker at respondent’s own expense a minimum of two (2) times per month and must furnish evidence to the Office of Probation that respondent is so complying with each quarterly report. Help/treatment should commence immediately, and in any event, no later than thirty (30) days after the effective date of the discipline in this matter.”

Respondent violated these conditions attached to a public reproof by failing to timely file quarterly reports, proof of mental health treatment and criminal probation statements with each quarterly report, that were due no later than January 10, 2008 and April 10, 2008. To date, Respondent has not filed the January 10, 2008 and April 10, 2008, quarterly reports.

One of the conditions of the reproof provided as follows:

“Respondent must obtain psychiatric or psychological help/treatment from a duly licensed psychiatrist, psychologist, or clinical social worker at respondent’s own expense a minimum of two (2) times per month and must furnish evidence to the Office of Probation that respondent is so complying with each quarterly report. Help/treatment should commence immediately, and in any event, no later than thirty (30) days after the effective date of the discipline in this matter.”

On or about November 26, 2007, the Office of Probation received a letter from Dr. Richard Blak regarding Respondent’s mental health treatment condition. Dr. Blak reported that respondent sought treatment on the following dates: 6/7/07 (initial appointment), 6/12/07, 7/10/07, 7/24/07, 8/7/07, 9/17/07, 9/27/07, 10/9/07, 10/16/07 and 11/13/07.

Based on the dates of treatment, respondent received only one (1) treatment session in November 2007 and failed to receive any treatment in December 2007.

Respondent violated a condition of reproof by failing to obtain mental health treatment a minimum of two (2) times per month.

B. Legal Conclusions

By failing to contact the Office of Probation for an initial meeting within 30 days from effective date of discipline, failing to submit quarterly reports and proof of compliance with conditions of probation in the underlying criminal matter and proof of mental health treatment that were due no later than January 10, 2008 and April 10, 2008, and failing to report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California of any change in contact information within 10 days, and failing to receive the requisite two (2) times per month mental health treatment in November 2007 and December 2007, respondent wilfully violated Rules of Professional Conduct, rule 1-110, by failing to comply with the conditions attached to a public reproof administered by the State Bar pursuant to Business and Professions Code sections 6077 and 6078 and former rule 956, California Rules of Court.

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(6), was February 24, 2009.

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.

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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 Facts and Conclusions of Law.

Respondent enters into this stipulation as a condition of his/her participation in the Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Program Contract.

If the Respondent is not accepted into the Program or does not sign the Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

If the Respondent is accepted into the Program, this Stipulation will be filed and will become public. Upon Respondent's successful completion of or termination from the Program, the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Confidential Statement of Alternative Dispositions and Orders shall be imposed or recommended to the Supreme Court.

3/4/09
Date

Michael A. Gulla
Respondent's Signature

Michael A. Gulla
Print Name

3/4/09
Date

Vicki H. Young
Respondent's Counsel Signature

Vicki H. Young
Print Name

3/5/09
Date

Susan Chan
Deputy Trial Counsel's Signature

SUSAN CHAN
Print Name

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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(a), Rules of Procedure.)

Date August 31, 2009

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 August 31, 2009, I deposited a true copy of the following document(s):

STIPULATION RE FACTS AND CONCLUSIONS OF LAW

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 ANTHONY GULLA
71-650 SAHARA RD STE 2
RANCHO MIRAGE, CA 92270 - 4336**

- By personal service:

**VICKI YOUNG
180 HOWARD STREET, 6TH FLOOR
SAN FRANCISCO, CA 94105**

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

SUSAN CHAN – ENFORCEMENT – San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on August 31, 2009.


Laurretta Cramer
Case Administrator
State Bar Court