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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>DISBARMENT</b>		
Counsel For The State Bar  Hugh G. Radigan Deputy Trial Counsel 1149 South Hill Street Los Angeles, California 90015 213-765-1206  Bar # 94251	Case Number(s): 08-N-10857 08-O-12457 08-O-12880	For Court use only   <div style="text-align: center;"> <p><b>FILED</b></p> <p><b>MAR 01 2011</b></p> <p>STATE BAR COURT                          CLERK'S OFFICE                          LOS ANGELES</p> </div>
In Pro Per Respondent  Gregory J. Khougaz 12100 Wilshire Blvd. Suite 1250 Los Angeles, California 90025 310-826-1382  Bar # 107530	Submitted to: <b>Assigned Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT  <b>DISBARMENT</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: Gregory J. Khougaz  Bar # 107530  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 January 24, 1983.
- (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 resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of (21) pages, not including the order.



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- (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 to be awarded to the State Bar.
  - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
  - Costs are entirely waived.
- (9) ORDER OF INACTIVE ENROLLMENT:  
The parties are aware that if this stipulation is approved, the judge will issue an order of inactive enrollment under Business and Professions Code section 6007, subdivision (c)(4), and Rules of Procedure of the State Bar, rule 5.111(D)(1).

**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**
- (a)  State Bar Court case # of prior case 03-O-04272
  - (b)  Date prior discipline effective December 15, 2004
  - (c)  Rules of Professional Conduct/ State Bar Act violations: Rule 3-110(A) and B&PC section 6068(m)
  - (d)  Degree of prior discipline public reproof
  - (e)  If respondent has two or more incidents of prior discipline, use space provided below:  
  
05-H-04322; effective September 8, 2006; rule 1-110; one year stayed suspension.  
  
07-PM-12993; effective December 30, 2007; multiple probation compliance violations; one year actual suspension.
- (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.

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- (4)  **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. see attachment page 20
- (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. see attachment page 20
- (7)  **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. see attachment page 20
- (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.

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- (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:**

see page 20 of stipulation attachment

**D. Discipline: Disbarment.**

**E. Additional Requirements:**

- (1) **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.
- (2)  **Restitution:** Respondent must make restitution to \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ plus 10 percent interest per year from \_\_\_\_\_. If the Client Security Fund has reimbursed \_\_\_\_\_ for all or any portion of the principal amount, respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5. Respondent must pay the above restitution and furnish satisfactory proof of payment to the State Bar's Office of Probation in Los Angeles no later than \_\_\_\_\_ days from the effective date of the Supreme Court order in this case.
- (3)  **Other:** It is recommended that Respondent Gregory J. Khougaz make restitution to Gordon Molko in the amount of \$6,739.59 plus 10% interest per annum from February 1, 2008, (or to the Client Security Fund to the extent of any payment from the fund to Gordon Molko, plus interest and costs, in accordance with Business and Professions Code section 6140.5), and furnish satisfactory proof thereof to the State Bar's Office of Probation. Any restitution owed to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivision (c) and (d).

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Attachment language (if any):

**ATTACHMENT TO**  
**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF: Gregory J. Khougaz

CASE NUMBER(S): ET AL. 08-N-10857, 08-O-12457 and 08-O-12880

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.

**FACTS AND CONCLUSIONS OF LAW.**

**Case No. 08-N-10857**

1. On November 30, 2007, the California Supreme Court filed a disciplinary order in case number S 143864 ("9.20 Order"). The 9.20 Order included a requirement that Respondent comply with California Rule of Court 9.20 ("Rule 9.20") by performing the acts specified in subdivisions (a) and (c) within 30 and 40 days, respectively, after the effective date of the 9.20 Order.
2. On November 30, 2007, the Clerk of the Supreme Court of the State of California properly served upon Respondent a copy of the 9.20 Order. Respondent received the 9.20 Order.
3. The 9.20 Order became effective on December 30, 2007, thirty days after the 9.20 Order was filed, and at all times thereafter remained in full force and effect. Thus Respondent was ordered to comply with subdivision (a) of Rule 9.20 no later than on or about January 29, 2008, and was ordered to comply with subdivision (c) of Rule 9.20 no later than on or about February 8, 2008.
4. On December 7, 2007, Cindy Jollotta, Probation Deputy of the Office of Probation of the State Bar of California ("Ms. Jollotta") wrote to Respondent regarding the 9.20 Order. Ms. Jollotta's letter was placed in a sealed envelope correctly addressed to Respondent at his State Bar of California membership records address. The letter was promptly mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business. The United States Postal Service did not return Ms. Jollotta's letter as undeliverable or for any other reason.
5. Ms. Jollotta's letter specifically advised Respondent that the declaration of compliance he was required to file pursuant to Rule 9.20 must be filed with the State Bar Court no later than February 8, 2008. Enclosed with Ms. Jollotta's letter were, among other things, a copy of the 9.20 Order and a declaration of compliance form for Respondent to use to comply with Rule 9.20.
6. Respondent failed to comply with subdivision (c) of Rule 9.20 by not filing a declaration of compliance with the State Bar of California by February 8, 2008, as directed by the 9.20 Order.

7. On February 20, 2008, Ms. Jollotta telephoned Respondent, and verbally reminded him that no Rule 9.20 declaration of compliance had been filed.
8. On February 20, 2008 at 10:43 a.m., Ms. Jollotta sent via facsimile a Rule 9.20 declaration of compliance form to Respondent, and requested therein that Respondent immediately file the declaration with the State Bar Court.
9. On March 3, 2008, Respondent filed a Rule 9.20 declaration of compliance with the State Bar Court. On or about March 6, 2008, the Office of Probation of the State Bar of California rejected Respondent's Rule 9.20 declaration of compliance because it was untimely and defective in form. The declaration of compliance was rejected as defective in form because Respondent checked both boxes in items 1 through 4 of the declaration instead of checking only one box per item.
10. On March 6, 2008, the Office of Probation of the State Bar of California wrote to Respondent informing him that his Rule 9.20 declaration of compliance filed on March 3, 2008 was rejected for the reasons set forth hereinabove, and requested that Respondent file another Rule 9.20 declaration of compliance immediately. The letter was placed in a sealed envelope correctly addressed to Respondent at his State Bar membership records address, 12100 Wilshire Bl., #1250, Los Angeles, CA 90025. The letter was promptly mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business. The United States Postal Service did not return the letter as undeliverable or for any other reason.
11. Respondent not having filed any subsequent Rule 9.20 declaration of compliance with the State Bar Court, the State Bar of California commenced formal disciplinary proceedings by filing a Notice of Disciplinary Charges on or about May 2, 2008.
12. On May 30, 2008, Respondent filed a Rule 9.20 declaration of compliance with the State Bar Court. In the May 30, 2008 Rule 9.20 declaration, Respondent declared under penalty of perjury under the laws of the State of California that within 30 days of the effective date of the order of suspension:
  - (a) "As of the date upon which the order to comply with rule 9.20 was filed, I had no clients."
  - (b) "I delivered to all clients any papers or other property to which the clients were entitled, or notified clients and co-counsel, if any, of a suitable time and place where the papers or other property could be obtained, and called attention to any urgency for obtaining the papers or other property."
  - (c) "I notified all opposing counsel/adverse parties not represented by counsel in matters that were pending on the date upon which the order to comply with rule 9.20 was filed by certified or registered mail, return receipt requested, of my disqualification to act as an attorney after the effective date of my suspension, disbarment, or the Supreme Court's acceptance of my resignation, and filed a copy of my notice to opposing counsel/adverse parties with the court, agency or tribunal before which litigation was pending for inclusion in its files."
13. Respondent's representations in his Rule 9.20 declaration of compliant were false, and Respondent knew or in the absence of gross negligence should have known that they



were false. In fact, as of the date upon which the order to comply with rule 9.20 was filed, Respondent did represent clients.

14. In fact, within 30 days of the effective date of the order of suspension, Respondent failed to notify all clients being represented in pending matters and any co-counsel of his suspension and his consequent disqualification to act as an attorney after the effective date of suspension, and, in the absence of co-counsel, also notify the clients to seek legal advice elsewhere, calling attention to any urgency in seeking the substitution of another attorney or attorneys, as required by Rule 9.20(a)(1); failed to timely deliver to all clients being represented in pending matters any papers or other property to which the clients were entitled, or notify clients and co-counsel of a suitable time and place where the papers or other property could be obtained, calling attention to any urgency for obtaining the papers or other property, as required by Rule 9.20(a)(2); and failed to notify all opposing counsel in pending litigation, or in the absence of counsel, the adverse parties of the suspension and consequent disqualification to act as an attorney after the effective date of the suspension, and file a copy of the notice with the court, agency, or tribunal before which the litigation is pending for inclusion in its files, as required by Rule 9.20(a)(4).

#### **CONCLUSIONS OF LAW:**

By not timely filing a Rule 9.20 declaration of compliance in conformity with the requirements of Rule 9.20(c), and by not complying with the requirements set forth in Rule 9.20(a), Respondent failed to comply with the provisions of the 9.20 Order requiring compliance with Rule 9.20. By the foregoing conduct, Respondent wilfully violated Rule 9.20 of the California Rules of Court.

By filing the Rule 9.20 declaration of compliance with the State Bar Court on May 30, 2008, Respondent misrepresented under penalty of perjury that he had complied with the Rule 9.20 Order requiring compliance with Rule 9.20, and thereby committed acts of moral turpitude, dishonesty and/or corruption in willful violation of Business and Professions Code section 6106.

#### **Case No. 08-O-12457**

1. On April 13, 2007, Respondent became attorney of record for Swanson Realty Group Inc. in the pending matter entitled *David A. Cordier v. John A. Tkach, Swanson Realty Group Inc. et al.*, Los Angeles County Superior Court Case No. EC039622 ("*Cordier matter*").
2. On September 28, 2007, the Review Department of the State Bar Court issued an Order suspending Respondent from the practice of law in California effective October 9, 2007, because Respondent had not passed the Multistate Professional Responsibility Exam ("MPRE") within the time prescribed in the California Supreme Court's Order No. S143864 (State Bar Court Case No. 05-H-04322) dated August 9, 2006. On September 28, 2007, a State Bar Court Case Administrator properly served a copy of the Review Department Order on Respondent at his State Bar of California membership records address. Respondent received the Order and was aware of its contents.
3. On October 1, 2007, Respondent prepared and filed a Complaint on behalf of John A.

Tkach in the matter entitled, *John A. Tkach v. R. Wayne McMillan*, Los Angeles County Superior Court Case No. GC039664 ("*Tkach* matter"). Respondent was the attorney of record for Mr. Tkach in the *Tkach* matter.

4. On October 4, 2007, in State Bar Court Case No. 07-PM-12993, the Hearing Department of the State Bar Court filed an Order Granting Motion to Revoke Probation and for Involuntary Inactive Enrollment, effective October 7, 2007, whereby Respondent was ordered inactive pursuant to Business and Professions Code section 6007(d)(1) for violating multiple probation conditions imposed by the California Supreme Court in a prior disciplinary matter. On October 4, 2007, a State Bar Court Case Administrator properly served a copy of the Order on Respondent at his State Bar of California membership records address and his former State Bar of California membership records address. Respondent received the Order and was aware of its contents.
5. On October 15, 2007, while Respondent was actually suspended from the Department of the State Bar Court filed an Order Granting Motion to Revoke Probation and for Involuntary Inactive Enrollment, effective October 7, 2007, whereby Respondent was ordered or about October 4, 2007, a State Bar Court Case Administrator properly served a copy of the Order on Respondent at his State Bar of California membership records address and his former State Bar of California membership records address. Respondent received the Order and was aware of its contents.
6. On October 15, 2007, while Respondent was actually suspended from the practice of law, Respondent prepared and filed (a) an "Opposition to Motion to Strike (SLAAP Motion); Memorandum of Points and Authorities; Declaration of Gregory J. Khougaz Re Attorney's Fees" and (b) a "Request for Judicial Notice in Opposition to Motion to Strike (SLAAP Motion) [C.C.P. §§ 452, 453]" on behalf of Swanson Realty Group Inc. in the *Cordier* matter. The document was dated October 15, 2007 and signed by Respondent as "Attorneys for Defendants Swanson Realty Group Inc." Respondent did not inform the Court in the *Cordier* matter that he was suspended from the practice of law.
7. On October 15, 2007, while Respondent was actually suspended from the practice of law, Respondent prepared and filed a "Peremptory Challenge [C.C.P. § 170.6]" in the *Tkach* matter. The document was dated October 12, 2007 and signed by Respondent as "Attorneys for Plaintiff John A. Tkach." Respondent did not inform the Court in the *Tkach* matter that he was suspended from the practice of law.
8. On October 19, 2007, while Respondent was actually suspended from the practice of law, Respondent prepared and filed a Notice or Ruling in the *Tkach* matter.
9. On October 23, 2007, while Respondent was actually suspended from the practice of law, Respondent filed an "Opposition to Motion to Strike" in the *Cordier* matter. The document was dated October 22, 2007 and signed by Respondent as "Attorneys for Defendants Swanson Realty Group Inc." Respondent did not inform the Court in the *Cordier* matter that he was suspended from the practice of law.
10. On October 26, 2007, at 8:30 a.m., a hearing was held on David A. Cordier's Motion to Strike First Amended Complaint in the *Cordier* matter. The Court in the *Cordier* matter was informed at that time that Respondent may not be eligible to practice law, and the

matter was continued until November 27, 2007.

11. On November 2, 2007, while Respondent was actually suspended from the practice of law, Respondent prepared and filed a Notice of Continuance of Case Management Conference in the *Tkach* matter.
12. On November 30, 2007, the Supreme Court of California filed Order No. S143864 (State Bar Court Case No. 07-PM-12993) revoking Respondent's probation, lifting the previously-ordered stay of execution of suspension, and actually suspending Respondent from the practice of law for one year, with credit toward the period of actual suspension given for the period of involuntary inactive enrollment which commenced on October 7, 2007. The Order became effective December 30, 2007. On November 30, 2007, the Clerk of the Supreme Court properly served a copy of the Order on Respondent. Respondent received the Order and was aware of its contents.
13. On December 7, 2007, a State Bar Probation Deputy wrote to Respondent, specifically advising Respondent that on November 30, 2007, the Supreme Court of California filed an Order, effective December 30, 2007, revoking his probation, lifting the previously ordered stay of execution of suspension, and actually suspending Respondent for a period of one year. A copy of the Supreme Court's November 30, 2007 Order was enclosed. The Probation Deputy also reminded Respondent that he was suspended under order from the Review Department (State Bar Court Case No. 05-H-04322) for failure to pass the MPRE, and that he would remain on suspension until he had taken and passed the MPRE. The Probation Deputy's letter was placed in a sealed envelope correctly addressed to Respondent at his State Bar of California membership records address. The letter was promptly mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business. The United States Postal Service did not return the Probation Deputy's letter as undeliverable or for any other reason.
14. On December 14, 2007, a Substitution of Attorney -Civil was filed in the *Cordier* matter, removing Respondent as counsel for Swanson Realty Group Inc. The document was dated December 4, 2007 and signed by Respondent. Respondent did not inform the *Cordier* Court that he was suspended from the practice of law.
15. On January 14, 2008, while Respondent was actually suspended from the practice of law, Respondent prepared and filed an "Answer to Cross-Complaint" in the *Tkach* matter. The document was dated January 10, 2008 and signed by Respondent as "Attorneys for Plaintiff John A. Tkach." Respondent did not inform the *Tkach* Court that he was suspended from the practice of law.
16. On April 2, 2008, at 8:30 a.m., as no appearance was made on behalf of John A. Tkach at a Case Management Conference in the *Tkach* matter, the Court set a hearing for April 30, 2008, at 8:30 a.m., for an Order to Show Cause re why sanctions should not be imposed, including dismissal of the case, for plaintiffs failure to appear, without good cause, at the Case Management Conference in violation of California Rules of Court 3.725.
17. On April 18, 2008, a Substitution of Attorney -Civil was filed in the *Tkach* matter, removing Respondent as counsel for John A. Tkach. The document was dated April 10,

2008 and signed by Respondent. Respondent did not inform the *Tkach* Court that he was suspended from the practice of law.

18. On October 7, 2008, Respondent was returned to active status with the State Bar.
19. Respondent knew or in the absence of gross negligence should have known that he was suspended from the practice of law from October 7, 2007 to October 7, 2008.

### **CONCLUSIONS OF LAW:**

By filing documents with the court after October 7, 2007 in the *Cordier* matter and the *Tkach* matter, Respondent held himself out to the court, opposing counsel and others as entitled to practice law and actually practiced law when he was not an active member of the State Bar in willful violation of Business and Professions Code, sections 6125 and 6126, and thereby failed to support the laws of the State of California in willful violation of Business and Professions Code section 6068(a).

By misrepresenting to the court, opposing counsel and others that he was entitled to practice law when he was not an active member of the State Bar, Respondent committed an act, or acts, involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code section 6106.

### **Case No. 08-O-12880**

1. On May 1, 2007, Gordon Molko, individually and as President of Bix Industries, Inc., employed Respondent to provide legal services on an hourly basis. That same day, Mr. Molko signed a written retainer agreement with Respondent. On May 2, 2007, Mr. Molko also paid Respondent \$5,000.00 in advance fees.
2. On May 15, 2007, Respondent prepared and filed a Complaint on behalf of Bix Industries, Inc., in the matter entitled *Bix Industries, Inc. v. Ronnie Eliason, individually and d.b.a. Ron Ross Motors, et al.*, LASC Case No. SC093922 ("*Bix Industries* matter").
3. According to records maintained by Respondent and/or Mr. Molko, on October 12, 15, 16, 17, 19, 23, 24, 25, November 1, 5, 6, 7, 12, 13, 14, December 3, 10, 18, 2007, January 2, 11, 14, 15, 17, 23, February 4, 9, 21, 25, 28, March 3, 4, 11, 17, 24, 25, 26, 27, 28, April 16, 18, 21, 23, 28, and May 16, 2008, while Respondent was actually suspended from the practice of law, Respondent met with Mr. Molko telephonically and/or in person regarding the *Bix Industries* matter but failed to inform Mr. Molko that he was not an active member of the State Bar.
4. On October 16, 2007, while Respondent was actually suspended from the practice of law, Respondent had a telephone conversation with Denise Parga, Esq., counsel for defendant Ronnie Eliason in the *Bix Industries* matter, during which Respondent requested that the scheduled October 17, 2007 deposition of Mr. Eliason be continued because Respondent had an unanticipated knee surgery. During this conversation, Respondent failed to inform Ms. Parga that he was not an active member of the State Bar.
5. On October 10, 2007, Alternative Dispute Resolution ("ADR") Services Case Manager Jess Centeno sent a letter to Respondent and Ms. Parga regarding the court-ordered

appointment of a mediator in the *Bix Industries* matter, and requested that both counsel indicate their availability on certain dates. In or about October 2007, having not received a response from Respondent, Mr. Centeno telephoned Respondent regarding possible dates for the mediation. Respondent provided Mr. Centeno with a date that he was available, but did not inform Mr. Centeno that he was actually suspended from the practice of law. The mediation was scheduled for January 24, 2008, and on or about October 22, 2007, Mr. Centeno sent a written Hearing Notice to Respondent and Ms. Parga, confirming that a mediation hearing was set for January 24, 2008 in the *Bix Industries* matter.

6. While Respondent was actually suspended from the practice of law, Respondent

billed Mr. Molko for the following legal services that Respondent performed in the *Bix*

*Industries* matter:

<u>Date</u>	<u>Event</u>	<u>Time</u>	<u>Amount</u>	<u>Cost</u>	<u>Cumulative Total</u>
10/12/07	Receipt and review Notice re Mediation and Auction documents; Fax to client; Prepare for Eliason deposition.	2.2	\$770.00		\$770.00
10/15/07	Preparation for Eliason depo; Office conf. w/client.	1.8	630.00		1,400.00
10/16/07	Phone calls and emails from/to client & Parga re depo and sublease; Phone call w/R Ramer re lot issues.	0.5	175.00		1,575.00
10/17/07	Phone calls and emails from client; Fax to same re documents.	0.4	140.00		1,715.00
10/19/07	Phone calls and emails from client.	0.2	70.00		1,785.00
10/22/07	Phone call to P. Tangalakis (Saxon counsel); Phone call w/ADR re mediation dates	0.5	175.00		1,960.00
10/22/07	Deposition Fee: CA Dealers Exch. Subpoena		0.00	\$114.72	2,074.72
10/23/07	Receipt and review of Notice re Mediation; Fax to and Phone call from client.	0.4	140.00		2,214.72
10/24/07	Phone call from P. Tangalakis; Phone call from client.	0.4	140.00		2,354.72
10/25/07	Office conf. w/client; Prepare lot agreement & letter to landlord re Lot Agreement; Email to client re Eliason strategy; Phone call from P. Tangalakis re assignment.	1.5	525.00		2,879.72
10/31/07	Email to P. Tangalakis.	0.2	70.00		2,949.72
11/01/07	Phone call and email from counsel re assignment; Email to client.	0.4	140.00		3,089.72
11/05/07	Phone call from P. Tangalakis; Phone call to client.	0.4	140.00		3,229.72
11/06/07	Phone call from client.	0.2	70.00		3,299.72
11/08/07	Phone call to D. Parga re deposition; Email to P. Tangalakis.	0.4	140.00		3,439.72
11/09/07	Phone call and email from counsel re execution of assignment; Email to client.	0.4	140.00		3,579.72
11/12/07	Phone call from client.	0.2	70.00		3,649.72

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11/13/07	Phone calls from client re landlord documents.	0.2	70.00		3,719.72
11/14/07	Phone calls w/client & to P. Tangalakis.	0.2	70.00		3,789.72
11/21/07	Release and review executed lot agreement & lease.	0.2	70.00		3,859.72
11/26/07	Receipt and review Kegorice letter w/lease & covenant; email to client; Phone call from Tangalakis.	0.4	140.00		3,999.72
11/27/07	Phone call from P. Tangalakis re assignment language.	0.2	70.00		4,069.72
11/28/07	Phone calls from mediator re hearing date, etc.	0.3	105.00		4,174.72
12/03/07	Receipt and review Tangalakis letter; Fax to client re assignment; Phone call from client.	0.3	105.00		4,279.72
12/10/07	Phone call and email to P. Tangalakis re assignment; Phone call from and fax to client re DMV records.	0.6	210.00		4,489.72
12/12/07	Phone call to Tangalakis	0.2	70.00		4,559.72
01/02/08	Meeting w/ and email to J. Steding re software production; Phone call w/client re same and sublease; Revise sublease; Email to client.	0.5	175.00		4,734.72
01/07/08	Receipt and review Eliason discovery; Prepare draft answers; Fax to client.	1.2	420.00		5,154.72
01/11/08	Conf. w/client; Review Sm. Cl. J.; Prepare Motion to Vacate; Fax to client.	0.6	210.00		5,364.72
01/14/08	Phone call to client re discovery.	0.2	70.00		5,434.72
01/22/08	Phone calls re mediation	0.2	70.00		5,504.72
01/23/08	Phone call to client re mediation.	0.2	70.00		5,574.72
02/21/08	Office conf. w/client & counsel; Prepare letter to Tangalakis re assignment; Prepare dismissal of Saxon.	1.5	525.00		6,099.72
02/25/08	Meeting w/client and D. Akin re status, etc. Prepare Depo notice and RFP.	3.5	1,225.00		7,324.72
02/27/08	Email from Akin re discovery; Revise responses for service.	0.5	175.00		7,499.72
02/28/08	Meet w/Akin to revise discovery responses; Phone call to client.	0.7	245.00		7,744.72
03/10/08	Receipt and review Property Profile re 1944 Preus; Email to client.	0.5	175.00		7,919.72
03/11/08	Phone call from client.	0.2	70.00		7,989.72

7. On February 20, 2008, a "Motion to Dismiss Action" on behalf of defendant Ronnie Eliason in the *Bix Industries* matter was served on Martin Horwitz, Esq., as the designated agent for service of process for Bix Industries~ Inc. On or about February 21, 2008 the Motion to Dismiss was filed in the *Bix Industries* matter on the grounds that plaintiff Bix Industries, Inc., had been unrepresented by counsel due to Respondent's suspension from the practice of law, and it had failed to prosecute the case.
8. On February 21, 2008, Mr. Horwitz sent a copy of the Motion to Dismiss via facsimile to Mr. Molko. On or about that same day, after receiving Mr. Horwitz's fax, Mr. Molko telephoned Respondent, who admitted to Mr. Molko for the first time that his license to practice law had been suspended in October 2007.
9. On that same day, Respondent met with Mr. Molko and David Akin, Esq., at Respondent's office, and Mr. Akin agreed to take over as attorney of record for Mr. Molko in the *Bix Industries* matter. During the meeting, Respondent, Mr. Molko and Mr. Akin all signed a Substitution of Attorney -Civil, which was filed with the court on February 22, 2008.
10. On March 4, 2008, Ms. Parga received formal discovery responses served by Bix Industries, Inc., which were sent in an envelope with the return address listed as "Law Offices of Gregory J. Khougaz, 12100 Wilshire Blvd., Ste. 1250, Los Angeles, CA 90025." The Proofs of Service by Mail accompanying the responses were signed by Sidni R. Saler, an individual employed at Respondent's membership address who had previously served documents for Respondent while he was attorney of record for Bix Industries, Inc. in the *Bix Industries* matter.
11. On November 13, 2007, while Respondent was actually suspended from the practice of law, Respondent sent Mr. Molko an itemized billing statement covering the time period of October 1, 2007 to October 31, 2007, with a stated amount of \$5,457.63 for legal services performed.
12. On December 14, 2007, while Respondent was actually suspended from the practice of law, Respondent sent Mr. Molko an itemized billing statement covering the time period of November 1, 2007 to November 28, 2007, with a stated amount of \$1,281.96 for legal services performed.
13. 42. On January 18, 2008, while Respondent was actually suspended from the practice of law, Mr. Molko sent Respondent a check in the amount of \$5,457.96, as payment for legal work performed on the *Bix Industries* matter as set forth in Respondent's November 13, 2007 itemized billing statement. Respondent received the check, and on or about January 29, 2008, Respondent deposited it in an account at City National Bank in the name of Law Offices of Gregory J. Khougaz.
14. On February 1, 2008, while Respondent was actually suspended from the practice of law, Mr. Molko sent Respondent a check in the amount of \$1,281.96, as payment for legal work performed on the *Bix Industries* matter as set forth in Respondent's December 14, 2007, itemized billing statement. Respondent received the check, and in February 2008, Respondent deposited it in an account at City National Bank in the



name of Law Offices of Gregory J. Khougaz.

15. On February 14, 2008, while Respondent was actually suspended from the practice of law, Respondent sent Mr. Molko an itemized billing statement covering the time period of December 3, 2007 to January 23, 2008, with a stated amount of \$1,465.10 for legal services performed. Or on about that same date, Respondent sent Mr. Molko another itemized billing statement covering the same time period and listing the same legal services performed but showing a credit balance of \$515.58.
16. On March 24, 2008, Mr. Akin sent an email to Respondent attaching an itemized billing statement covering February 21, 2008 to February 26, 2008, for \$400.00 in legal services performed by Mr. Akin in the *Bix Industries* matter, and requested that Respondent pass on the attached billing directly to Mr. Molko~ Respondent failed to forward Mr. Akin's March 24, 2008 billing statement to Mr. Molko.
17. On April 14, 2008, while Respondent was actually suspended from the practice of law, Respondent sent Mr. Molko an itemized billing statement covering the time period of February 21, 2008 to March 28, 2008, with a stated amount of \$4,569.87 for Respondent's legal services performed. None of Mr. Akin's March 24, 2008 billing entries was included in Respondent's April 14, 2008 itemized billing statement to Mr. Molko. Mr. Molko thereafter spoke with Respondent, asked why he was being billed and said that he did not want to be double-billed by Mr. Akin. Respondent responded by telling Mr. Molko that he was taking care of it.
18. Mr. Molko never paid any money to Mr. Akin, and Mr. Akin was eventually paid \$400.00 directly from Respondent.
19. Respondent knew or in the absence of gross negligence should have known that he was suspended from the practice of law from October 7, 2007 to October 7, 2008.
20. On July 15, 2008, the State Bar opened an investigation, Case No. 08-012880, pursuant to a complaint filed by Mr. Molko (the "Molko matter").
21. On August 27, 2008, a State Bar Investigator wrote to Respondent regarding the Molko matter. On September 19, 2008, the Investigator wrote to Respondent again regarding the Molko matter.
22. Both the August 27, 2008, and the September 19, 2008, letters were placed in sealed envelopes correctly addressed to Respondent at his State Bar of California membership records address. The letters were properly mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business. The United States Postal Service did not return the investigator's letters as undeliverable or for any other reason.
23. The Investigator's letters requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Molko matter. Respondent did not respond to the investigator's letters or otherwise communicate with the investigator.

### CONCLUSIONS OF LAW

By representing Mr. Molko, holding himself out to Mr. Molko, the court, opposing

counsel and the mediator's office as entitled to practice law, and actually practicing law in the *Bix Industries* matter after October 7, 2007, Respondent held himself out as entitled to practice law and actually practiced law when he was not an active member of the State Bar in willful violation of Business and Professions Code sections 6125 and 6126, and thereby failed to support the laws of the State of California in willful violation of Business and Professions Code section 6068(a).

By repeatedly charging and collecting attorney's fees from Mr. Molko when Respondent was not an active member of the State Bar for services provided when Respondent was not an active member of the State Bar, Respondent willfully charged and collected an illegal or unconscionable fee in willful violation of rule 4-200(A) of the Rules of Professional Conduct.

By misrepresenting to Mr. Molko, opposing counsel, the court and the mediator's office that he was entitled to practice law when he was not an active member of the State Bar, and by charging and collecting fees from Mr. Molko without telling Mr. Molko that he was suspended, Respondent committed an act, or acts, involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code section 6106.

By not providing a written response to the allegations in the Molko matter or otherwise cooperating in the investigation of the Molko matter, Respondent failed to cooperate in a disciplinary investigation in willful violation of Business and Professions Code section 6068(i).

#### **PENDING PROCEEDINGS.**

The disclosure date referred to, on page 2, paragraph A(7), was January 28, 2011.

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

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of January 28, 2011, the prosecution costs in this matter are approximately \$3,654.00. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted the costs in this matter may increase due to the cost of further proceedings.

#### **AUTHORITIES SUPPORTING DISCIPLINE.**

Standards for Attorney Sanctions for Professional Misconduct ("Standards"), Standard 1.7(b) provides that, "If a member is found culpable of professional misconduct in any proceeding in which discipline may be imposed and the member has a record of two prior impositions of discipline as defined by standard 1.2(f), the degree of discipline in the current proceeding shall be disbarment unless the most compelling mitigating circumstances clearly predominate."

Rule 9.20(d) provides that, inter alia, "A suspended member's willful failure to comply with the provisions of this rule is a cause for disbarment or suspension and for revocation of any pending probation. Additionally, such failure may be punished as a contempt or a crime."

Standard 1.6 provides that, "The appropriate sanction for an act of professional misconduct shall be that set forth in the following standards for the particular act of misconduct

found or acknowledged. If two or more acts of professional misconduct are found or acknowledged in a single disciplinary proceeding, and different sanctions are prescribed by these standards for said acts, the sanction imposed shall be the more or most severe of the different applicable sanctions.”

Standard 2.3 provides that “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 upon the extent to which the victim of the misconduct is harmed or misled and depending upon the magnitude of the act of misconduct and the degree to which it relates to the member’s acts within the practice of law.”

Standard 2.6 provides for disbarment or suspension depending upon the gravity of the offense or harm associated with a violation of Business and Professions Code sections 6068(a) and (i).

Standard 2.7 provides for at least a six month actual suspension irrespective of mitigating circumstances, for a violation of rule 4-200 of the Rules of Professional Conduct.

The Standards should be followed whenever possible. *In re Silvertown* (2005) 36 Cal. 4th 81, 92.

Moral turpitude has been defined as “an act of baseness, vileness or depravity in the private and social duties which a man owes to his fellow men, or to society in general, contrary to the accepted and customary rule of right and duty between man and man [citation]. The concept of moral turpitude depends upon the state of public morals, and may vary according to the community or the times, [citations] as well as on the degree of public harm produced by the act in question.” *In re Fahey* (1973) 3 Cal. 3d 842, 849.

Based on the Standards and applicable case law, disbarment is appropriate in this matter.

## **AGGRAVATING CIRCUMSTANCES.**

### **PRIOR DISCIPLINE**

Respondent has a prior record of discipline, as follows:

03-O-04272: Effective December 15, 2004, Respondent was publicly reprovved for failing to perform services competently and to communicate in one client matter.

05-H-04322: On April 20, 2006, Respondent signed a stipulation as to facts and conclusions of law admitting that he had willfully violated rule 1-110 of the Rules of Professional Conduct by failing to comply with the conditions of the public reprovval. On April 28, 2006, the State Bar Court filed its order approving the stipulation. On August 9, 2006, the Supreme Court suspended Respondent for one year (stayed), effective September 8, 2006, placed Respondent on probation for two years, and Respondent was ordered to take and pass the MPRE within one year after the effective date of the order and to complete the conditions of probation recommended by the Hearing Department. On September 28, 2007, the Review Department

suspended Respondent effective October 9, 2007, since Respondent had not passed the MPRE within the time prescribed in the Supreme Court order.

07-PM-12993: On August 1, 2007, the Office of Probation filed a motion to revoke Respondent's probation based on multiple alleged probation compliance violations. On October 4, 2007, the Hearing Department issued an order granting the motion, and on November 30, 2007 the Supreme Court filed an order, effective December 30, 2007, revoking Respondent's probation, lifting the stayed execution of suspension, and ordering respondent to be actually suspended from the practice of law for one year (credit was given for involuntary inactive status that had already commenced in October 2007). Respondent was also required to comply with Rule 9.20, 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 order.

#### **FACTS SUPPORTING AGGRAVATING CIRCUMSTANCES.**

There is only so much mitigation to be assessed to Respondent's ski accident of January 20, 2007, and the attendant stressors associated with the multiple surgical interventions and recuperation period thereafter. By Respondent's own acknowledgement, his fifth and last surgery took place on October 8, 2007, and while the distraction associated with this unfortunate and disabling injury was significant, it does nothing to excuse the repeated indifference Respondent expressed to compliance obligations associated with his earlier public reproof and defiance of the Supreme Court order determining his actual suspended status. It cannot be ignored, that while Respondent takes refuge in his injured status to excuse his inability to comply with his probationary obligations occurring in the fall of 2007, he nevertheless is fully able to author pleadings, meet with clients and otherwise fully engage in the unfettered practice of law. Clearly his disability was not as "total" as Respondent would argue. Most assuredly the injury does nothing to exonerate or excuse his conscious activity of unauthorized practice of law and failure to cooperate in the State Bar's investigation of those same matters.

#### **MITIGATING CIRCUMSTANCES**

##### **FACTS SUPPORTING MITIGATING CIRCUMSTANCES.**

Respondent suffered a serious injury associated with a skiing accident occurring on January 20, 2007, which resulted in a prolonged recuperation and multiple surgeries, the last of which occurred October 8, 2007.

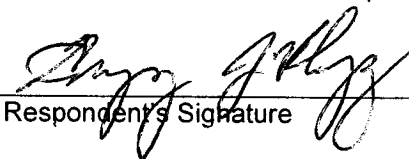

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In the Matter of:  
GREGORY J. KHOUGAZ

Case number(s):  
08-N-10857, 08-O-12457, 08-O-12880

### 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, Conclusions of Law, and Disposition.

<u>2/14/11</u> Date	 Respondent's Signature	<u>Gregory J. Khougaz</u> Print Name
<u>February 18 '11</u> Date	 Deputy Trial Counsel's Signature	<u>Hugh G. Radigan</u> Print Name

(Do not write above this line.)

In the Matter of:  
GREGORY J. KHOUGAZ

Case Number(s):  
08-O-10857, 08-O-12457, 08-O-12880

### DISBARMENT 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 5.58(E) & (F), 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.)**

Respondent is ordered transferred to involuntary inactive status pursuant to Business and Professions Code section 6007, subdivision (c)(4). Respondent's inactive enrollment will be effective three (3) calendar days after this order is served by mail and will terminate upon the effective date of the Supreme Court's order imposing discipline herein, or as provided for by rule 5.111(D)(2) of the Rules of Procedure of the State Bar of California, or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

Date

3/24/11

Judge of the State Bar Court

  
RICHARD A. HONN