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**State Bar Court of California  
Hearing Department  
San Francisco**

Counsel For The State Bar  Tammy M. Albertsen-Murray 180 Howard Street San Francisco, CA 94105 (415) 538-2527  Bar # 154248	Case Number (s) 08-O-13627-PEM	(for Court's use) <b>PUBLIC MATTER</b>  <b>FILED</b>   FEB 12 2010  STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
In Pro Per Respondent  Gregory J. Tokarczyk 1405 Regent Street, #5 Redwood City, CA 94061 (415) 240-5101  Bar # 150924	Submitted to: <b>Settlement Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>ACTUAL SUSPENSION</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter Of: <b>GREGORY J. TOKARCZYK</b>  Bar # 150924  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 December 4, 1990.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 12 pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."

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- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
  - costs to be paid in equal amounts prior to February 1 for the following membership years: (hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
  - costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
  - costs entirely waived

**B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.**

- (1)  **Prior record of discipline** [see standard 1.2(f)]
- (a)  State Bar Court case # of prior case 06-O-15057, et al. [S
  - (b)  Date prior discipline effective November 5, 2009, although misconduct occurred between August, 2004 and May 2007 and stipulation re: same was filed by State Bar Court on February 24, 2009. This time frame encompasses the time frame of misconduct in the instant matter.
  - (c)  Rules of Professional Conduct/ State Bar Act violations: RPC 3-110(A) - 6 counts; 3-700(D)(1) - 3 counts; 3-700(D)(2) - 2 counts; 4-100(B)(3); Business & Professions code, sections 6106, 6068(m) - 7 counts; 6068(i) - 5 counts; 6068(j), 6103.
  - (d)  Degree of prior discipline Two years' suspension, stayed; two years' probation with conditions, including six months' actual suspension and until respondent makes restitution. Proof of rehabilitation required if suspension lasts two years or more. Take and pass MPRE within one year or during suspension period, whichever later. Comply with Rule 9.20.
  - (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. Respondent's failure to voluntarily refund unearned fees to

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client and failure to participate in the State Bar investigation demonstrate his indifference and failure to atone.

- (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. Respondent failed to respond to State Bar investigator's multiple letters or any other way participate in the investigation.
- (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.
- (2)  **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3)  **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4)  **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5)  **Restitution:** Respondent paid \$ \_\_\_\_\_ on \_\_\_\_\_ in restitution to \_\_\_\_\_ without the threat or force of disciplinary, civil or criminal proceedings.
- (6)  **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7)  **Good Faith:** Respondent acted in good faith.
- (8)  **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9)  **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10)  **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11)  **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.

- (12)  **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13)  **No mitigating circumstances** are involved.

**Additional mitigating circumstances**

Respondent stipulated to the imposition of discipline in this matter, thus relieving the State Bar and State Bar Court from expending additional resources for this prosecution.

Documentary evidence provided in conjunction with his prior discipline confirms that respondent suffers from bipolar disorder and chemical dependencies. He has sought treatment in a residential program (October 13, 2006 through February 12, 2007) and through the Lawyer's Assistance Program.

He continues to attend support group meetings to address his substance abuse issues and has been substance-free for the past eleven (11) months.

**D. Discipline:**

- (1)  **Stayed Suspension:**
- (a)  Respondent must be suspended from the practice of law for a period of one (1) year.
- i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.
- ii.  and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii.  and until Respondent does the following: Makes restitution to Wendel LeRoy as set forth in the Stipulation Attachment, at page 8 ("Financial Conditions").
- (b)  The above-referenced suspension is stayed.
- (2)  **Probation:**
- Respondent must be placed on probation for a period of one (1) year, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)
- (3)  **Actual Suspension:**
- (a)  Respondent must be actually suspended from the practice of law in the State of California for a period of six (6) months.
- i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct

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- ii.  and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii.  and until Respondent does the following: Makes restitution to Wendel LeRoy as set forth in the Stipulation Attachment, at page 8 ("Financial Conditions").

#### **E. Additional Conditions of Probation:**

- (1)  If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2)  During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3)  Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4)  Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5)  Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (6)  Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7)  Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8)  Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.

No Ethics School recommended. Reason: .

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- (9)  Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10)  The following conditions are attached hereto and incorporated:
- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions                    | <input type="checkbox"/> Financial Conditions             |

**F. Other Conditions Negotiated by the Parties:**

- (1)  **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
- No MPRE recommended. Reason:
- (2)  **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3)  **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4)  **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5)  **Other Conditions:**

Respondent is already ordered to take and pass the MPRE and Ethics School and to provide proof of passage to the Office of Probation in conjunction with his prior discipline. If respondent timely complies with the MPRE and Ethics School conditions as ordered with the discipline in case number 06-O-15057, et al., he need not repeat them for the instant discipline.

**ATTACHMENT TO**

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

IN THE MATTER OF:           GREGORY J. TOKARCZYK

CASE NUMBER(S):   ET AL.           08-O-13627-PEM

Respondent pleads nolo contendere to the following facts and violations. Respondent completely understands that the plea for nolo contendere shall be considered the same as an admission of the stipulated facts and of his or her culpability of the statutes and/or Rules of Professional Conduct specified herein.

**FACTS AND CONCLUSIONS OF LAW.**

**Facts.**

On March 8, 2006, Wendel LeRoy and his wife, Patricia LeRoy (hereinafter, "the LeRoys") employed respondent to represent them in an ongoing civil action in Santa Clara County Superior Court, entitled *Sanchez v. LeRoy*, case number 1-02-CV-807380. At the time, the LeRoys paid respondent \$1,500.00 as an advance toward a \$5,000 total fee.

On March 28, 2006, respondent filed a substitution of attorney substituting himself in as counsel for the LeRoys in place of former counsel, Terry Graff.

Thereafter, respondent failed to communicate with the LeRoys or respond to their repeated telephone calls and messages inquiring about the status of their case, even though respondent had received the LeRoys' messages.

Subsequent to March 28, 2006, respondent failed to perform the services for which he was hired, including but not limited to:

- Arriving at a scheduled arbitration hearing ten minutes before the arbitration ended, notwithstanding the fact that respondent knew of the actual start time of the arbitration;
- Failing to appear on October 11, 2006 at a scheduled court settlement conference, notwithstanding that respondent had received notice of the October 11 conference. Respondent also failed to inform the LeRoys of the scheduled conference, resulting in the LeRoys' own failure to appear at the conference. Respondent was sanctioned 4500.00 by the court for his failure to appear and the LeRoys were each sanctioned \$250.00 for their failure to appear at the conference;
- Failing to prepare the LeRoys for trial and failing to perform work on the LeRoys' behalf; and
- Failing to appear on October 18, 2006 for the first day of trial, notwithstanding that respondent had received notice from the court that the trial would commence on October 18, 2006.

On October 18, 2006, when respondent failed to appear for the trial, the LeRoys, who did appear, informed the court that they had been unable to reach respondent and were not advised of the settlement conference of October 11, 2006. The court granted a continuance to the LeRoys to find new counsel and relieved them of the sanctions imposed for failing to appear at the settlement conference because of respondent's conduct. The sanctions against respondent remained in effect.

Respondent did not earn the advance fees the LeRoys had paid to him. At no point did respondent return to the LeRoys any portion of the unearned fees.

On July 21, 2008, the State Bar opened an investigation pursuant to Mr. LeRoy's complaint. On December 9, 2008, State Bar investigator Gormley wrote to respondent regarding the LeRoy matter. The letter requested that respondent respond in writing to specified allegations of misconduct. Respondent received the December 9 letter, but did not respond to it.

On January 15, 2009, Investigator Gormley wrote a second letter to respondent regarding the LeRoy matter. In the January 15 letter, the investigator informed respondent that no response to the December 9 letter had been received. Investigator Gormley enclosed a copy of the December 9 letter. Respondent received the January 15 letter, but did not respond to it or otherwise communicate with the State Bar investigator or in any way cooperate with the investigation.

### **Conclusions of Law.**

By repeatedly by failing to respond to the LeRoys' inquiries concerning the status of their case; appearing late at the arbitration; failing to appear at the settlement conference; failing to inform the clients of the settlement conference failing to prepare the LeRoys for trial; failing to perform work on the LeRoys' matter; and failing to appear on the first day of trial, respondent intentionally, recklessly and repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

Respondent wilfully violated Rules of Professional Conduct, rule 3-700(A)(2) by failing to respond to the LeRoys' inquiries concerning the status of their case; failing to appear at the settlement conference; failing to inform the clients of the settlement conference; and failing to prepare the LeRoys for trial, respondent constructively terminated his employment with the LeRoys. Respondent did not inform the LeRoys of his intent to withdraw from representation and failed to take any other steps to avoid reasonably foreseeable prejudice to the LeRoys and to their case. By not providing the LeRoys with notice of his termination of employment, respondent improperly withdrew from employment.

Respondent wilfully violated Rules of Professional Conduct, rule 3-700(D)(2) by not responding to the LeRoys' repeated inquiries of the status of their case; appearing late at the arbitration; failing to appear at the settlement conference; and failing to appear at the first day of trial, thereby constructively terminating his employment having earned none of the advanced fee paid to him by the LeRoys.

Respondent wilfully violated Business and Professions Code, section 6068(m) by failing to respond promptly to reasonable status inquiries of a client and by failing to keep his clients reasonably informed of significant events because respondent failed to respond to the LeRoys' inquiries concerning the status of their case and failed to inform the LeRoys that the court had sanctioned them for their failure to appear at the settlement conference.

Respondent wilfully violated Business and Professions Code, section 6068(i) by failing to cooperate in a State Bar investigation by failing to provide a written response to either of the State Bar investigation letters or otherwise cooperating in the investigation of the LeRoy matter.

### **PENDING PROCEEDINGS.**

The disclosure date referred to on page 2, paragraph A(7), was January 19, 2010.



## **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of January 19, 2010, the prosecution costs in this matter are \$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 Discipline, standard 2.4(b);

Standards for Attorney Discipline, standard 1.7(a), which would otherwise require discipline greater than the six (6) months' actual suspension herein stipulated in that respondent does have recent and relevant discipline encompassing five (5) client matters, is less applicable in the instant matter because respondent's misconduct at issue herein occurred simultaneously with that of the other matters that were the subject of the prior discipline and was surrounded by most of the same factors in mitigation, particularly as they related to substance abuse and mental health; and

*In the Matter of Johnston* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 585 (60 days actual suspension) – the instant case is worse in that the attorney in *Gallaher* had no prior discipline, but the instant respondent has significant mitigation.

## **FINANCIAL CONDITIONS, RESTITUTION.**

Within the period of probation as calculated from the effective date of discipline in this matter, respondent must make restitution to Wendell LeRoy or the Client Security Fund if it has paid, in the principal amount of \$ 1,500.00 plus interest at the rate of 10% per annum from March 8, 2006 and furnish satisfactory evidence of restitution to the Office of Probation. Respondent shall include, in each quarterly report required herein, satisfactory evidence of all restitution payments made by him or her during that reporting period.

## **FINANCIAL CONDITIONS, RESTITUTION.**

Respondent waives any objection to payment by the State Bar Client Security Fund upon a claim for the principal amount of restitution set forth herein.

Neither this Stipulation, nor participation in the Attorney Diversion and Assistance Program precludes or stays the independent review and payment of applications for reimbursement filed against the Respondent pursuant to the Rules of Procedure, Client Security Fund Matters.

In the Matter of  
**GREGORY J. TOKARCZYK**

Case number(s):  
**08-O-13627-PEM**

### **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 **ANY APPROVED ABSTINENCE-BASED SELF-HELP GROUP**

**Respondent shall attend at least four (4) meetings per month of an abstinence-based self-help group of his own choosing, including, inter alia, Alcoholics Anonymous, Narcotics Anonymous, Life Ring, S.M.A.R.T., and/or 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. Calif. (C.D. Calif. 1994) 855 F. Supp. 303.) The program called "Moderation Management" is not acceptable because it allows participants to continue to consume alcohol.**

**Respondent has been attending an abstinence-based self-help group in conjunction with the terms of his prior discipline. He may continue to attend the same program and must report to the Office of Probation as set forth below.**

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 (10<sup>th</sup>) 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

(Substance Abuse Conditions form approved by SBC Executive Committee 10/16/2000. Revised 12/16/2004; 12/13/2006.)

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.



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In the Matter Of <b>GREGORY J. TOKARCZYK</b>	Case Number(s): <b>08-O-13627</b>
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### ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- All Hearing dates are vacated.

On page 4 of the stipulation, the "X" in box D(1)(a)(iii) is deleted to remove the "and until" condition extending respondent's one-year stayed suspension until he "Makes restitution to Wendel LeRoy as set forth in the Stipulation . . . at page [9] ('Financial Conditions')." First, it is unnecessary to attach such "and until" conditions to periods of *stayed* suspension. Second, the "and until" condition in paragraph D(1)(a)(iii) is irreconcilable with the Financial Conditions provisions on page 9 of the stipulation under which respondent is given the entire "period of probation" to make restitution to LeRoy (or the Client Security Fund if it has been paid).

On page 5 of the stipulation, the "X" in box D(3)(a)(iii) is deleted to remove the condition extending respondent's six-month suspension until he "Makes restitution to Wendel LeRoy as set forth in the Stipulation . . . at page [9] ('Financial Conditions')." The "and until" condition in paragraph D(3)(a)(iii) is irreconcilable with the Financial Conditions provisions on page 9 of the stipulation under which respondent is given the entire "period of probation" to make restitution to LeRoy (or the Client Security Fund if it has been paid).

On page 5 of the stipulation, the "X" in box E(1) is deleted to remove the conditional standard 1.4(c)(ii) requirement. The conditional standard 1.4(c)(ii) requirement in paragraph E(1) is inappropriate because there is no possibility that respondent's suspension in this proceeding will extended for two or more years.

On page 5 of the stipulation, the "X" in the first box of E(8) is deleted, and an "X" is inserted in the second box of E(8) to provide that no Ethics School is recommended, and the following text is inserted as the reason: "Under the Supreme Court's October 6, 2009, order in *In re Gregory John Tokarczyk on Discipline*, case number S175509 (State Bar Court case number 06-O-15057, etc.), respondent is already required to attend and successfully complete Ethics School no later than November 5, 2010. To require respondent to attend and complete Ethics School again in the present proceeding would be redundant. (Cf. Rules Proc. of State Bar, rule 290(a).)"

On page 6 of the stipulation, an "X" is inserted in the box in front of "Financial Conditions" in paragraph E(10) to clarify that the Financial Conditions on page 9 of the stipulation are probation conditions.

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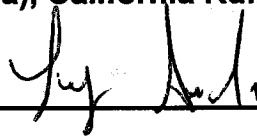
On page 6 of the stipulation, the "X" in the first box of F(1) is deleted, and an "X" is inserted in the second box of F(1) to provide that no MPRE is recommended, and the following text is inserted as the reason: "Under the Supreme Court's October 6, 2009, order in *In re Gregory John Tokarczyk on Discipline*, case number S175509 (State Bar Court case number 06-O-15057, etc.), respondent is already required to take and pass the MPRE no later than November 5, 2010, or the period of his suspension, whichever is longer. To require respondent to take and pass the MPRE again in the present proceeding would be redundant."

On page 6 of the stipulation, the "X" in box F(5) is deleted, and the parties' text inserted in paragraph F(5) is deleted in its entirety.

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.)**

Feb. 11, 2010

Date



Judge of the State Bar Court  
**LUCY ARMENDARIZ**

**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, February 12, 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:

**GREGORY J. TOKARCZYK  
1405 REGENT ST #5  
REDWOOD CITY, CA 94061**

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

TAMMY ALBERTSEN-MURRAY , Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on February 12, 2010.



Laurette Cramer  
Case Administrator  
State Bar Court