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State Bar Court of California
Hearing Department
Los Angeles

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Bar # 132699

In the Matter Of:
Noel T. Rufo, Jr.

Bar # 243150

A Member of the State Bar of California
(Respondent)

Case Number (s)
09-C-10673 PEM

(for Court's use)

NOT FOR PUBLICATION

PUBLIC MATTER

FILED

OCT 29 2009

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

Submitted to: **Settlement Judge**

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND
DISPOSITION AND ORDER APPROVING

PRIVATE REPROVAL

PREVIOUS STIPULATION REJECTED

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted June 2, 2006.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 9 pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".



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- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- costs added to membership fee for calendar year following effective date of discipline (public reprov)
 - case ineligible for costs (private reprov)
 - costs to be paid in equal amounts for the following membership years: three billing cycles following the effective date of this reprov.
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
 - costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
 - costs entirely waived
- (9) The parties understand that:
- (a) A private reprov imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reprov was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidents of a prior record of discipline under the Rules of Procedure of the State Bar.
 - (b) A private reprov imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
 - (c) A public reprov imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

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

- (1) Prior record of discipline [see standard 1.2(f)]
- (a) State Bar Court case # of prior case
 - (b) Date prior discipline effective
 - (c) Rules of Professional Conduct/ State Bar Act violations:
 - (d) Degree of prior discipline
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline."

(Do not write above this line.)

- (2) **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.

- (1) **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (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.

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- (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 has no prior record of discipline.

D. Discipline:

- (1) **Private reproof (check applicable conditions, if any, below)**
- (a) Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).
- (b) Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).

or

- (2) **Public reproof (Check applicable conditions, if any, below)**

E. Conditions Attached to Reproof:

- (1) Respondent must comply with the conditions attached to the reproof for a period of one year.
- (2) During the condition period attached to the reproof, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the condition period attached to the reproof. 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 reproof during the preceding calendar quarter. Respondent must also state in each report whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 (thirty) days, that report must be submitted on the next following quarter date, and cover the extended period.

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

- (6) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the monitor.
- (7) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the conditions attached to the reprobation.
- (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: The protection of the public and the interests of the Respondent do not require Respondent's attendance of Ethics School in this case. See California Rules of Court, rule 9.19(a) (former rule 956(a)), and In the Matter of Respondent G (Review Dept. 1992), 2 Cal. State Bar Ct. Rptr. 181.
- (9) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year of the effective date of the reprobation.

No MPRE recommended. Reason: The protection of the public and the interests of the Respondent do not require passage of the MPRE in this case. See California Rules of Court, rule 9.19(a) (former rule 956(a)), and In the Matter of Respondent G (Review Dept. 1992), 2 Cal. State Bar Ct. Rptr. 181.

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

- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

SEE ATTACHMENT TO STIPULATION

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: NOEL TOM RUFO, JR.

CASE NUMBER: 09-C-10673

FACTS AND CONCLUSIONS OF LAW.

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.

I. Facts

1. On June 12, 2008, in San Diego County Superior Court Case Number M042462DV, Respondent was charged with violating California Penal Code sections 242 and 243, subdivision (a),¹ for a misdemeanor battery committed upon his mother on March 4, 2008, and section 368, subdivision (c), for elder abuse in connection with said battery.
2. In that same case, Respondent was also charged with violating sections 242 and 243, subdivision (a), for a misdemeanor battery committed upon his father on March 4, 2008, and section 368, subdivision (c), for elder abuse in connection with said battery.
3. In that same case, Respondent was also charged with violating sections 242 and 243, subdivision (a), for a misdemeanor battery committed upon his sister on March 4, 2008.
4. On February 2, 2009, the sections 242 and 243, subdivision (a) charges related to Respondent's parents were amended to sections 242 and 243.25, for Respondent's battery committed upon his elder or dependent parents (the amended criminal complaint).
5. On February 6, 2009, Respondent pled no contest to all five misdemeanor counts as charged in the amended criminal complaint, and he stipulated to facts as reflected in the police report concerning the matters, which includes the following:
 - a. On March 4, 2008 Respondent's mother, Haze Rufo, experienced a relapse of her alcohol abuse problem. Mrs. Rufo had just returned from a 30 day stay at the Betty Ford clinic. Respondent's sister, Tiffany Rufo, came over to the house Mrs. Rufo shares with Respondent and her husband, Noel Rufo, Sr.
 - b. When Tiffany Rufo arrived, she and Respondent engaged in a verbal altercation regarding family finances. The altercation escalated and Respondent grabbed Tiffany Rufo. Respondent dragged her outside the house. Respondent then went back inside the house and locked the door.

¹All further references to "section(s)" are to the California Penal Code, unless otherwise specified.

- c. When Respondent grabbed Tiffany Rufo, Haze Rufo attempted to remove Respondent from his sister. Respondent pushed Haze Rufo.
- d. When Respondent grabbed Tiffany Rufo, Noel Rufo, Sr. attempted to remove Respondent from his sister. Respondent pushed Noel Rufo, Sr.

6. On February 6, 2009, Respondent was sentenced to three years of summary probation, ordered to pay \$754 in fines, complete 15 days of Public Service Program, and complete 52 weeks of Elder Abuse Class.

7. The judgment of Respondent's misdemeanor convictions has become final, prior to the commencement of this disciplinary proceeding.

II. Conclusions of Law

The parties stipulate that by violating California Penal Code sections 242, 243, subdivision (a), 243.25, and 368, subdivision (c), Respondent did not commit acts involving moral turpitude; however, Respondent committed other misconduct warranting discipline.

The parties further stipulate that by violating California Penal Code sections 242, 243, subdivision (a), 243.25, and 368, subdivision (c), Respondent wilfully violated California Business and Professions Code section 6068, subdivision (a), which imposes a duty upon Respondent to support the Constitution and laws of the United States and of this state.

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was September 24, 2009.

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 3.4 provides that the final conviction of a member of a crime which does not involve moral turpitude inherently or in the facts and circumstances surrounding the crime's commission but does involve other misconduct warranting discipline shall result in a sanction as prescribed under part B of the standards appropriate to the nature and extent of the misconduct.

In *In the Matter of Stewart* (Review Dept. 1994) 3 Cal.State Bar Ct. Rptr. 52, the Respondent was convicted of misdemeanor battery on a police officer. He drank a 100 proof alcoholic beverage while his 18-month-old son was in his sole care, trespassed on his ex-wife's apartment, refused to leave when officers told him to, berated his ex-wife, bear hugged an officer when the officer took hold of his arm, struggled with the officer causing the officer to sustain cuts and bruises and tearing the officer's uniform shirt. Further, Respondent made racial epithets towards one of the officers. In the criminal matter, the Respondent received two years of probation with conditions including 2 days in jail, attendance at 30 meetings of Alcoholics Anonymous, and 40 hours of community service. The Review Department recommended discipline consisting of a two-year stayed suspension, and two years of probation with conditions including a 60-day actual suspension. In aggravation, the Respondent had one prior discipline just one year prior to the misconduct which was also of a different nature and not imposed until after his criminal conviction so that the Respondent could not have learned from it.

In *In re Otto* (1989) 48 Cal.3d 970, the attorney was convicted of two felonies: assault by means likely to produce great bodily injury, and infliction of corporal punishment on a cohabitant of the opposite sex resulting in a traumatic condition (Pen. Code, §§ 245, subd. (a), and 273.5, respectively). The trial court reduced both counts to misdemeanors and placed Otto on probation with conditions, including 90 days in jail. The Review Department found that moral turpitude was not involved, but Otto's acts did constitute other misconduct warranting discipline. The Court imposed two years of stayed suspension and two years of probation, conditioned on actual suspension for six months.

In *In re Kelley* (1990) 52 Cal 3d 487, while the Respondent was on probation for a prior April 1984 DUI conviction, in November 1986 the Respondent received a second DUI conviction. The Supreme Court imposed discipline consisting of a public reproof and three years of probation with conditions. In aggravation the court found that Respondent made no attempts to show rehabilitative efforts and maintained she had no alcohol-abuse problem.

In the present case, Respondent has no prior record of discipline and his misconduct does not relate to his practice of law. Moreover, the facts and circumstances surrounding Respondent's misconduct are less egregious than those found in *In re Kelley*, *In re Otto* or *In the Matter of Stewart*. Given the totality of circumstances, a private reproof with public disclosure is an appropriate level of discipline and sufficient to protect the public, the courts, and the profession.

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In the Matter of NOEL T. RUFO, JR.	Case number(s): 09-C-10673
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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 Fact, Conclusions of Law, and Disposition.

10/14/09
Date

10/15/09
Date

10/16/09
Date

Noel T. Rufo, Jr.
Respondent's Signature

Noel T. Rufo, Jr.
Print Name

Edward O. Lear
Respondent's Counsel Signature

Edward O. Lear
Print Name

Elina Kreditor
Deputy Trial Counsel's Signature

Elina Kreditor
Print Name

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In the Matter Of NOEL T. RUFO, JR.	Case Number(s): 09-C-10673
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ORDER

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

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

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 135(b), Rules of Procedure.) The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)

October 29, 2009
Date

Pat McElroy
Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on October 29, 2009, 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:

EDWARD O. LEAR
CENTURY LAW GROUP LLP
5200 W CENTURY BLVD #345
LOS ANGELES, CA 90045

by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:

by overnight mail at , California, addressed as follows:

by fax transmission, at fax number . No error was reported by the fax machine that I used.

By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

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

Elina Kreditor, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on October 29, 2009.



George Hue
Case Administrator
State Bar Court