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State Bar Court of California Hearing Department Los Angeles PUBLIC MATTER		
Counsel For The State Bar Bita Shasty 1149 South Hill Street Los Angeles, California 90015-2299 Bar # 225177	Case Number (s) 09-C-11920, 09-C-11922	(for Court's use) <div style="text-align: center;"> FILED MAR 24 2010 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
Counsel For Respondent Edward O. Lear Century Law Group LLP 5200 West Century Blvd., Ste. 345 Los Angeles, California 90045 Bar # 132699	Submitted to: Settlement Judge	
In the Matter Of: FABRICE JOHN DESBROSSES Bar # 175640 A Member of the State Bar of California (Respondent)	STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL SUSPENSION <input type="checkbox"/> 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 **January 11, 1995**.
- (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 **10** 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."
- (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.
 - costs to be paid in equal amounts prior to February 1 for the following membership years: **Two billing cycles following the effective date of the Supreme Court Order.**
(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
 - (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."
- (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. **Respondent was convicted of two separate violations of driving under the influence of alcohol.**
- (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

D. Discipline:

- (1) **Stayed Suspension:**

- (a) Respondent must be suspended from the practice of law for a period of **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:

The above-referenced suspension is stayed.

(2) **Probation:**

Respondent is placed on probation for a period of **2 years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court)

E. Additional Conditions of Probation:

- (1) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2) 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.
- (3) 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.
- (4) 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.

- (5) 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.
- (6) 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.

- (7) 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 State Bar Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: .
- (8) 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.
- (9) 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:

- (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 within one year. **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) **Other Conditions:**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: FABRICE JOHN DESBROSSES

CASE NUMBER(S): 09-C-11920, 09-C-11922-RAH

PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING

1. This is a proceeding pursuant to sections 6106 and 6102 of the Business and Professions Code and rule 9.10 of the California Rules of Court.

2. On May 5, 2009, Respondent pled no contest and was convicted of violating California Vehicle Code 23152, sections (a) driving under the influence of alcohol which occurred on January 10, 2008. Also on May 5, 2009, Respondent pled no contest and was convicted of violating California Vehicle Code 23152(b) driving under the influence of alcohol while having a 0.08 percent or more of alcohol in his blood and 14601.2, section (a), driving on a suspended license for driving with excessive alcohol content which occurred on June 1, 2008. All three counts Respondent pled no contest to and was convicted of were misdemeanors in the Kern County criminal court.

3. On July 16, 2009, the Review Department of the State Bar Court issued two orders (for cases 09- C-11920 and 09-C-11922) referring the matters to the Hearing Department on the following issues: hearing and decision recommending the discipline to be imposed in the event that the hearing department finds that the facts and circumstances surround the violation of Vehicle Code section 23152, subdivision (a), (b), and 14601.2(a) involved moral turpitude or other misconduct warranting discipline.

FACTS AND CONCLUSIONS OF LAW.

Respondent Fabrice John Desbrosses ("Respondent") admits that the following facts are true and that he violated Vehicle Code section 23152, subdivision (a), (b) and 14601.2(a), as set forth below, and that said conduct involved other misconduct warranting discipline.

FACTS

Case No. 09-C11922

On January 10, 2008, at approximately 3:32 a.m., Officer D. McAfee ("McAfee) from the Bakersfield Police Department was dispatched to the 9000 block of Ming Avenue regarding a single vehicle rollover accident. Upon arrival, McAfee observed Respondent's vehicle, Ford Windstar minivan, at rest on its roof. Upon making contact with Respondent, McAfee noticed Respondent had an odor of alcohol emitting from his breath and person in addition to red water eyes and very thick and slurred speech. Respondent was also displaying a very unsteady gait and swaying excessively. Respondent told McAfee he had drank two beers with dinner and was on several prescription medications.

Respondent was then given the following Field Sobriety Tests (FST) for drinking and driving: horizontal gaze nystagmus test, Rhomberg test, walk and turn test, and the one leg stand test. Respondent performed poorly during these tests. He was then administered the Preliminary Alcohol Screening test (PAS) which provided .017 percent alcohol content. Respondent was then placed under arrest for a violation of Penal Code section 23152(a).

Case No. 09-C-11920

On June 1, 2008, at approximately 4:17 a.m., the Bakersfield Police Department dispatched officers to the area of Lakes Avenue and Ming Avenue regarding a possible DUI vehicle which was seen in the area. Police officers Matson and Caughell made a traffic enforcement stop of Respondent. Upon approaching Respondent's vehicle, the officers noticed strong odor of an alcoholic beverage emitting from the interior of the vehicle and Respondent's person. They also noticed he had red and watery eyes with a slow and slurred speech. When questioned as to whether he had been drinking and whether he was willing to perform field sobriety tests, Respondent cursed at the officers repeatedly and asked for his attorney. When asked to exit his vehicle, Respondent was unsteady and had to grab a hold of the driver's side door in order to keep his balance. In addition, the officers conducted a drivers license check and were advised that Respondent's license was suspended for driving under the influence of alcohol.

Respondent was arrested for driving under the influence of alcohol and driving on a suspended license. Respondent was then taken to the Kern Medical Center for a forced blood draw because he had refused to submit to a blood or breath test. Upon arrival at the medical center, Respondent refused to exit the police vehicle. Officer Caughell had to force Respondent to exit the vehicle and enter the medical center. The blood test results later showed a blood alcohol content .20 percent.

As stated On May 5, 2009, Respondent pled no contest to violations of California Vehicle Code, section 23152(a), driving under the influence of alcohol, (b), driving with a blood alcohol content of .08% or higher and 14601.2(a), driving on a suspended license for DUI.

Respondent had a prior misdemeanor conviction in violation of Vehicle Code section 23152, subdivisions (a), driving under the influence of alcohol, in case no BM 713518 in Kern county. Respondent was convicted on August 31, 2007 of that violation.

In the current matters, Respondent was sentenced to 270 days of jail, placed on three years probation including conditions that he participate and complete the SB 38 alcohol program.

CONCLUSIONS OF LAW:

The parties stipulate that the facts and circumstances surrounding Respondent's violations of California Vehicle Code, sections 23152(a), (b) and 14601.2(a), did not involve moral turpitude, but did involve other misconduct warranting discipline. Respondent acknowledges that by the conduct described above, he failed to support the laws of the State of California in wilful violation of California Business and Professions Code, section 6068(a).

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of February 22, 2010, the approximate costs in this matter is \$3,530. 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.

PENDING PROCEEDINGS.

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

COMPLIANCE WITH CONDITIONS OF PROBATION IN UNDERLYING CRIMINAL MATTER.

Respondent shall comply with all conditions of probation imposed in the underlying criminal matter and shall so declare under penalty of perjury in conjunction with any quarterly report required to be filed with the Office of Probation.

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 1.3, Title IV, Standards for Attorney Sanctions for Professional Misconduct, provides that the primary purposes of the disciplinary system are: “the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession.”

Standard 3.4 states that “[f]inal 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 which does involve other misconduct warranting discipline shall result in a sanction as prescribed under part B of these standards appropriate to the nature and extent of the misconduct found to have been committed by the member.”

The parties further submit that the intent and goals of Standard 1.3 are met in this matter by the imposition of a one year stayed suspension with probationary conditions articulated herein, including that Respondent attend Ethics School and take the Multistate Professional Responsibility Examination.

(Do not write above this line.)

In the Matter of FABRICE JOHN DESBROSSES, No. 175640	Case number(s): 09-C-11920 & 09-C-11922
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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.

3-10-2010

Date

3/15/10

Date

3/17/10

Date



Respondent's Signature

FABRICE JOHN DESBROSSES

Print Name



Respondent's Counsel Signature

EDWARD O. LEAR

Print Name



Deputy Trial Counsel's Signature

BITA SHASTY

Print Name

(Do not write above this line.)

In the Matter Of FABRICE JOHN DESBROSSES, No. 175640	Case Number(s): 09-C-11920 & 09-C-11922
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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.

1. On page 6 of the stipulation, numbered paragraph 1, "6106" is deleted, and in its place is inserted "6101".

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.)**

3-24-10

Date



RICHARD A. HONN
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 Los Angeles, on March 24, 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:

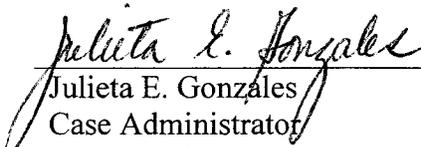
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

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

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

Bitu Shasty, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on March 24, 2010.



Julieta E. Gonzales
Case Administrator
State Bar Court