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<b>State Bar Court of California Hearing Department San Francisco REPROVAL</b>		
<b>Counsel For The State Bar</b>  Robert A. Henderson Deputy Trial Counsel 180 Howard St. San Francisco, CA 94105 (415) 538-2385  Bar # 173205	<b>Case Number(s):</b>  09-O-13653	<b>For Court use only</b>  kwiktag <sup>®</sup> 018 037 508   <b>PUBLIC MATTER</b>  <b>FILED</b> <i>[Signature]</i>  JUL 18 2011  STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
<b>Counsel For Respondent</b>  Jonathan Arons 221 Main St., Suite 740 San Francisco, CA 94105 (415) 957-1818  Bar # 111257	<b>Submitted to: Settlement Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>PUBLIC REPROVAL</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
<b>In the Matter of:</b> William F. Marini  Bar # 59703  A Member of the State Bar of California (Respondent)		

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

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted June 18, 1974.
- (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."

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- (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 are added to membership fee for calendar year following effective date of discipline (public reproof).
  - Case ineligible for costs (private reproof).
  - Costs are to be paid in equal amounts prior to February 1 for the following membership years: (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
  - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
  - Costs are entirely waived.
- (9) The parties understand that:
- (a)  A private reproof 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 reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
  - (b)  A private reproof 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 reproof 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 08-O-13097
  - (b)  Date prior discipline effective October 5, 2009
  - (c)  Rules of Professional Conduct/ State Bar Act violations: 3-110(A); 6068(m).
  - (d)  Degree of prior discipline Private Reproof.

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- (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.
- (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. Respondent in good faith believed he did not have to file a written response to the demurrer. He accepts the judge's ruling.
- (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

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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)  **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

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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.

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 reproof.
- (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: .
- (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 reproof.
- No MPRE recommended. Reason:
- (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:**

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

IN THE MATTER OF:                      William F. Marini

CASE NUMBER(S):                      09-O-13653

**FACTS AND CONCLUSIONS OF LAW.**

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 culpability of the statutes and/or Rules of Professional Conduct specified herein.

Case No. 09-O-13653 (Complainant: Shelah Spiegel and Rudy Morgan)

**FACTS:**

1. On June 26, 2008, Shelah Spiegel and Rudy Morgan ("Spiegel and Morgan") hired respondent to negotiate the lease provisions with the second occupant, to obtain past-due rent and/or to evict the occupants of residential real estate they owned in Berkeley California and attempt to collect past due rent. On this date Spiegel and Morgan paid respondent \$2,000 in advanced fees and costs. At the time respondent was hired, Spiegel and Morgan had not received any payment from the tenants who occupied the residence on April 5, 2008. Time was of the essence.

2. On July 23, 2008, respondent drafted and posted a Three Day Notice to Pay Rent or Quit ("Three Day Notice"). The attorney for the tenants asserted that the Three Day Notice failed to contain some of the language required by the Berkeley Rent Stabilization Ordinance. The Three Day Notice also failed to specifically identify one of the known tenants. The Three Day Notice did identify "All Others In Possession."

3. On August 26, 2008, respondent filed a complaint for unlawful detainer on behalf of Spiegel and Morgan, case no. 08406263. The non-signatory occupant was not named.

4. On September 18, 2008, counsel for the known tenant and named occupants, filed a Prejudgment Claim for Right of Possession, and Demurrer to the unlawful detainer. The Demurrer alleged that respondent's pleadings: failed because the complaint alleged an incorrect date for the Three Day Notice; failed because the Three Day Notice failed to comply with the Berkeley Rent Stabilization Ordinance; and were defective for other reasons. The hearing on the demurrer was set for October 15, 2008. Thereafter, counsel for the known tenant and named occupants filed a preemptory challenge against the judge, resulting in the hearing date on the demurrer being moved to October 20, 2008.

5. Respondent never filed a written response to the Demurrer filed September 18, 2008. Respondent discussed the upcoming hearing in an office conference on October 7, 2008, with Spiegel and Morgan that he would appear at hearing and argue. Respondent did not document the conference in a writing to Spiegel. Respondent never told Spiegel and Morgan that he did not file a written response.

6. On October 8, 2008, counsel for the tenants filed a Statement of Non-Opposition to the Demurrer. Respondent never told Spiegel and Morgan about this filing.

7. On October 20, 2008, respondent appeared at the hearing for the Demurrer to argue the matter. The judge refused to allow him to argue. Respondent believed that he was not required to file a Response to the September 18, 2008, Demurrer. Respondent believed that he was not required to file a Response to the October 8, 2008, Statement of Non-Opposition to the Demurrer.

8. On October 22, 2008, the court sustained the Demurrer without leave to amend, which was not on the merits. The unlawful detainer action was dismissed. The court noted that "Plaintiffs failed to file any written opposition." Respondent never told Spiegel and Morgan that the court had dismissed the unlawful detainer without leave to amend.

9. On October 24, 2008, Spiegel sent respondent a fax regarding the hearing. Respondent failed to respond promptly to Spiegel's inquiry.

10. On October 26, 2008, Spiegel sent respondent a letter asking him for information about the case. Respondent failed to respond promptly to Spiegel's inquiry.

11. On November 1, 2008, the tenants voluntarily vacated the residence which had been the subject of case no. 08406263.

12. On November 3, 2008, Spiegel sent respondent a fax, asking respondent to file an *ex parte* motion for judgment against the tenants. Respondent failed to respond promptly to Spiegel's inquiry.

13. On November 30, 2008, respondent advised Spiegel to "forget about" the unlawful detainer, as the tenants had vacated the residence.

14. On December 4, 2008, Spiegel sent respondent a letter requesting that respondent take further actions on the dismissed case. The actions requested included: a writ of execution; judgment; and Stipulation for Entry of Judgment. Respondent failed to respond promptly to Spiegel's inquiry.

#### CONCLUSIONS OF LAW:

15. By failing to post the Three Day Notice until July 23, 2008, by failing to include on the Three Day Notice language required by the Berkeley Rent Stabilization Ordinance, by failing to file the unlawful detainer until August 26, 2008, and by failing to File a Response to the September 18, 2008 Demurrer, respondent intentionally, recklessly, and repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

16. By failing to advise Spiegel and Morgan that he failed to file a response to the September 18, 2008, Demurrer, and by failing to advise Spiegel and Morgan that the unlawful detainer had been dismissed without leave to amend on October 22, 2008, respondent failed to keep his clients reasonably informed of significant matters in which he agreed to perform legal services, in willful violation of Business and Professions Code section 6068(m).

**PENDING PROCEEDINGS.**

The disclosure date referred to, on page 2, paragraph A(7), was June 24, 2011

**AUTHORITIES SUPPORTING DISCIPLINE.**

2.4(b) – “Culpability of a member of willfully failing to perform services in an individual matter or matters not demonstrating a pattern of misconduct or culpability of a member willfully failing to communicate with a client shall result in a reproof or suspension depending on the extent of the misconduct and the degree of harm to the client.”

*Franklin v. State Bar* (1986) 41 Cal.3d 700 – Franklin received 45-days actual suspension. Franklin in two client matters failed to perform and failed to communicate.

**COSTS OF DISCIPLINARY PROCEEDINGS.**

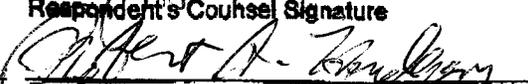
Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of June 24, 2011, the prosecution costs in this matter are \$3,269. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

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In the Matter of: William F. Marini	Case number(s): 09-O-13653
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**SIGNATURE OF THE PARTIES**

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

6/20/2011		William F. Marini Print Name
June 28, 2011		Jonathan Arons Print Name
6/29/11		Robert A. Henderson Print Name
Date	Deputy Trial Counsel's Signature	Print Name

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In the Matter of: William F. Marini	Case Number(s): 09-O-13653
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### REPROVAL ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproof, 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 REPROVAL IMPOSED.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- All court dates in the Hearing Department are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) **Otherwise the stipulation shall be effective 15 days after service of this order.**

**Failure to comply with any conditions attached to this reproof may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.**

Date July 18, 2011 Pat McElery  
Judge of the State Bar Court

**CERTIFICATE OF SERVICE**

[Rules Proc. of State Bar; Rule 5.27(B); 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 July 18, 2011, 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:

JONATHAN IRWIN ARONS  
LAW OFC JONATHAN I ARONS  
221 MAIN ST STE 740  
SAN FRANCISCO, CA 94105

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

ROBERT HENDERSON , Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on July 18, 2011.

  
Laretta Cramer  
Case Administrator  
State Bar Court