


 ORIGINAL

**State Bar Court of California
Hearing Department
Los Angeles
STAYED SUSPENSION**

Counsel For The State Bar Hugh G. Radigan Deputy Trial Counsel 1149 South Hill Street Los Angeles, California 90015 213-765-1206 Bar # 94251	Case Number(s): 10-C-04011	For Court use only PUBLIC MATTER FILED  NOV 22 2011 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
In Pro Per Respondent Steven R. Andrade 211 Equestrian Avenue Santa Barbara, California 93101 805-962-4944 Bar # 79718	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: STEVEN R. ANDRADE Bar # 79718 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 23, 1978.
- (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".
- (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.
 - ☒ Costs are to be paid in equal amounts prior to February 1 for the following membership years: 2013 and 2014. (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.

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.
- (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. Respondent cooperated with the State Bar during the pendency of this matter.
- (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. Respondent, a diabetic, experienced a hypoglycemic reaction due to low blood sugar, which significantly contributed to this vehicular accident and his inability to control his vehicle. His subsequent behavior in leaving the accident scene was to allow him access to apple juice maintained at his nearby office to restore his blood sugar level.
- (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. Respondent has

(Do not write above this line.)

provided three reference letters from members of both the legal and general community aware of his misconduct, attesting to his good character.

- (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

Under standard 1.2(e)(i), Respondent is entitled to significant mitigation due to his thirty-two years of discipline free practice.

D. Discipline:

(1) ☒ **Stayed Suspension:**

(a) ☒ Respondent must be suspended from the practice of law for a period of one 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 one year, 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 5.162(A) & (E), Rules of Procedure.**
- ☐ No MPRE recommended. Reason: .
- (2) ☒ **Other Conditions:**
- Respondent must provide satisfactory proof of passage of the MPRE and satisfactory proof of attendance at a session of the State Bar Ethics School within the first ten months of his probation herein.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Steven R. Andrade

CASE NUMBER(S): 10-C-04011

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.

PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING.

1. This is a proceeding pursuant to sections 6101 and 6102 of the Business and Professions Code and rule 9.10 of the California Rules of Court.

2. On January 7, 2011, Respondent was convicted of violating Vehicle Code sections 20002(a) [misdemeanor hit and run] and 23103(5) [misdemeanor wet reckless].

3. On August 3, 2011, the Review Department of the State Bar Court issued an order referring the matter to the Hearing Department on the following issues: Whether the facts and circumstances surrounding the offense involved moral turpitude or other misconduct warranting discipline.

Case No. 10-C-04011:

Facts:

4. On January 7, 2011, Respondent Steven R. Andrade ("Respondent") pled nolo contendere and was convicted of violating Vehicle Code sections 20002(a) [misdemeanor hit and run] and 23103(5) [misdemeanor wet reckless].

5. The underlying offense occurred on April 9, 2010, at which time Respondent was involved in a vehicular accident wherein Respondent lost control of his vehicle and it struck two unoccupied parked vehicles.

6. On April 23, 2010, a four count misdemeanor complaint was filed in the Superior Court for the County of Santa Barbara, Figueroa Division, styled *The People of the State of California v. Steven Rudolph Andrade*, court number 1332240. Respondent was charged with violations of California Vehicle Code sections 23152(a) [misdemeanor DUI], 23152(b) [misdemeanor driving with alcohol level of more than .08%], 20002(a) [hit and run driving], and 16028(a) [failure to provide evidence of financial responsibility].

7. On January 7, 2011, all counts except the misdemeanor hit and run were dismissed in the interests of justice. The misdemeanor count of wet reckless was also added as part of the plea. At that

time Respondent was ordered released pursuant to a terminal disposition and assessed a \$750.00 fine and an additional victim restitution fine of \$125.00.

Conclusions of Law:

8. The parties stipulate that the facts and circumstances surrounding Respondent's plea of nolo contendere and conviction for violating Vehicle Code sections 20002(a) [misdemeanor hit and run] and 23103(5) [misdemeanor wet reckless], involved other misconduct warranting discipline.

PENDING PROCEEDINGS.

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

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 3.4 provides that "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 which 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 found to have been committed by the member."

In re Lesansky (2001) 25 Cal. 4th 11, 16; Criminal conduct not committed in the practice of law does not evidence moral turpitude unless it shows a character deficiency necessary to the practice of law, or a serious breach of duty to society or flagrant disrespect for the laws that would undermine public confidence in the profession.

In re Kelley (1990) 52 Cal. 3rd 457; while the respondent was on probation for a prior April 1984 DUI conviction, in November 1986 respondent received a second DUI conviction. The California 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 case at bar, Respondent's conduct in not properly testing and monitoring his blood sugar levels on the day in question was reckless and contributed significantly to the vehicular accident. As such, in consideration of the facts and circumstances surrounding Respondent's misconduct, and the aggravating and mitigating circumstances present, the parties submit that the intent and goals of the standards are met with a one year stayed suspension and one year probation.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of October 28, 2011, the prosecution costs in this matter are approximately \$2287.00. 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.

In the Matter of: STEVEN R. ANDRADE	Case number(s): 10-C-04011
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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.

Steven R Andrade
Respondent's Signature

Steven R. Andrade
Print Name

Respondent's Counsel Signature

Print Name

November 8 '11

Deputy Trial Counsel's Signature

Hugh G. Radigan
Print Name

(Do not write above this line.)

In the Matter of:
STEVEN R. ANDRADE

Case Number(s):
10-C-04011

STAYED SUSPENSION 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:

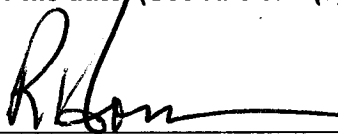
- ☒ The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- ☒ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- ☒ All Hearing dates are vacated.

See attached Modifications to Stipulation.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date (See rule 9.18(a), California Rules of Court.)**

Date

11-21-11



Judge of the State Bar Court

RICHARD A. HORN

STEVEN R. ANDRADE
Case No. 10-C-04011-RAH

MODIFICATIONS TO STIPULATION

1. On page 6 of the stipulation, in paragraph E(7), the time period "Within one (1) year of the effective date of the discipline herein" is CHANGED to "Within 10 months of the effective date of the discipline herein" to make clear that respondent must provide, to the Office of Probation, satisfactory proof of attendance at a session of Ethics School and of passage of the test given at the end of that session within the first 10 months of his probation.
2. On page 6 of the stipulation, in paragraph F(2) (other conditions), in the first line, the phrase "satisfactory proof of passage of the MPRE" is DELETED. (Even though respondent must complete Ethics School within the first 10 months of his probation, respondent has one year to take and pass the MPRE. (*Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.))

-X-X-X-

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 November 22, 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:

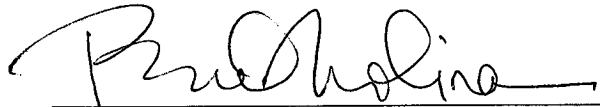
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

STEVEN RUDOLPH ANDRADE
211 EQUESTRIAN AVE
SANTA BARBARA, CA 93101

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

HUGH G. RADIGAN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on November 22, 2011.



Bernadette C.O. Molina
Case Administrator
State Bar Court