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| State Bar Court of California Hearing Department San Francisco REPROVAL | | |
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| Counsel For The State Bar Erica L. M. Dennings State Bar of California 180 Howard Street San Francisco, CA 94105 Bar # 145755 | Case Number(s): 10-C-9659 10-C-10258 | For Court use only PUBLIC MATTER FILED <i>R</i> SEP 23 2011 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO |
| Counsel For Respondent Daniel Karalash Strategic Law Command 1207 Front Street, Suite 15 Sacramento, CA 95814 Bar # 176422 | Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING | |
| In the Matter of: Gary W. Gorski Bar # 166526 A Member of the State Bar of California (Respondent) | PUBLIC REPROVAL <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 December 10, 1993.
- (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 **//** 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
 - (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."

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- (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. see attached
- (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. Respondent was admitted to practice in California on December 10, 1993 and has no prior record of discipline.
- (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

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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 Reproval:

- (1) ☒ Respondent must comply with the conditions attached to the reproof for a period of one (1) 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

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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 reproval.
- (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 reproval.

☒ 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. In the Matter of Respondent G (Review Dept. 1992) 2 Cal.State Bar Ct. Rptr. 175 .

- (11) ☐ The following conditions are attached hereto and incorporated:
- | | |
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| <input checked="" type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: GARY W. GORSKI
CASE NUMBER(S): 10-C-9659-LMA; 10-C-10258-LMA

FACTS AND CONCLUSIONS OF LAW.

Case No. 10-C-10258-LMA

Procedural Background: This is a proceeding pursuant to sections 6101 and 6102 of the Business and Professions Code and rule 951 of the California Rules of Court. On February 26, 2010, respondent pled guilty to a misdemeanor violation of one count of Vehicle Code section 23103(A), reckless driving. On May 12, 2011, the Review Department of the State Bar issued an order referring the matter to the Hearing Department for a hearing and decision recommending the discipline to be imposed in the event that the facts and circumstances surrounding the conviction involved moral turpitude or other misconduct warranting discipline.

Facts: On May 30, 2009, at approximately 7:00 p.m. in the El Dorado County, respondent was driving his motorcycle with a passenger onboard from northbound Ponderosa Rd on the westbound US 50 on ramp when he lost control of the motorcycle, it slid and fell over. The passenger on the motorcycle was thrown off the motorcycle and injured. After the CHP arrived, they questioned respondent about the accident. The officer detected a strong odor of alcohol coming from respondent. Respondent refused to complete the field sobriety tests or to completely answer questions that the officers asked. Respondent was arrested for suspicion of driving under the influence and transported to Marshall Hospital. The passenger was transported to U.C. Davis medical center. At the hospital, police interviewed the passenger who revealed that she and respondent had stopped for a meal and consumed alcohol on the way to her home in Fair Oaks from their motorcycle ride. The passenger stated that her right leg, abdomen, and breast hurt. Respondent submitted to blood tests which revealed his blood alcohol level to be .05%. The blood test revealed that respondent had benzodiazepines in his blood. Respondent was later booked into county jail.

On July 28, 2009, respondent was charged by complaint with misdemeanor violations of Vehicle Code section 23153(a), driving under the influence of alcohol and drugs and causing injury, a misdemeanor. On March 2, 2010, respondent pled nolo contendere to a misdemeanor violation of one count of Vehicle Code section 23103, reckless driving. Respondent was placed on summary probation for a period of 24 months, fined \$500, ordered to complete a six week wet reckless program, and not to drive without a valid license or without insurance.

Conclusions of Law: The facts and circumstances surrounding Respondent's violation of California Vehicle Code section 23103(a) do not involve moral turpitude, but do involve other conduct warranting discipline. Respondent acknowledges that by the conduct described herein, he willfully violated Business and Professions Code section 6068(a).

Case No. 10-C-9659-LMA

Procedural Background: This is a proceeding pursuant to sections 6101 and 6102 of the Business and Professions Code and rule 951 of the California Rules of Court. On March 18, 2011, respondent pled nolo contendere to a misdemeanor violation of Vehicle Code section 23152(a), driving under the influence of alcohol and/or a drug. On June 9, 2011, the Review Department of the State Bar issued an order referring the matter to the Hearing Department for a hearing and decision recommending the discipline to be imposed in the event that the facts and circumstances surrounding the conviction involved moral turpitude or other misconduct warranting discipline.

Facts: On July 18, 2010, at approximately 1:00 a.m. in El Dorado County while traveling westbound on Motherlode Drive on his motorcycle, two CHP officers observed respondent speeding and weaving in his lane. The CHP officers pulled respondent over. The officers noticed the smell of alcohol from his breath and that respondent's eyes were bloodshot and watery. Respondent denied having consumed any alcohol. Respondent refused to complete the field sobriety tests the officers attempted to administer. The officer placed respondent under arrest for suspicion of driving under the influence. Respondent was taken to Marshall Hospital where a blood test was administered. Respondent was then taken to county jail and booked. The blood test revealed a blood alcohol level of 12%. On October 20, 2010, respondent was charged by complaint with misdemeanor violations of Vehicle Code section 23152(a), driving while intoxicated, and Vehicle Code section 23152(b), driving while having a .08% or higher blood alcohol, and a probation violation hearing notice due to the fact that he was on probation for his previous conviction of February 26, 2010. Respondent pled no contest to Vehicle Code section 23152(a). Respondent was ordered to enroll in a first offender program, serve a jail sentence of 96 hours, and pay a fine of \$2232.

Conclusions of Law: The facts and circumstances surrounding Respondent's violation of California Vehicle Code section 23152(a) do not involve moral turpitude, but do involve other conduct warranting discipline. Respondent acknowledges that by the conduct described herein, he willfully violated Business and Professions Code section 6068(a).

PENDING PROCEEDINGS.

The disclosure date was August 19, 2011.

AGGRAVATING CIRCUMSTANCES.

Multiple instances/pattern of misconduct

Respondent's two convictions constitute multiple instances of misconduct.

AUTHORITIES SUPPORTING DISCIPLINE.

Standards for Attorney Sanctions for Professional Misconduct 1.2(e)(i), 1.2(v), 2.6(a), 3.4; *In re Kelley* (1990) 52 Cal.3d 487; and see generally *In Re Silverton* (2005) 36 Cal.4th 81.

**ELECTION NOT TO REQUEST STATE BAR COURT'S
ALTERNATIVE DISCIPLINE PROGRAM.**

By signing this stipulation, Respondent acknowledges that he was provided information about the State Bar Court's Alternative Discipline Program, that he was offered the opportunity to request referral to and participation in that program, and that he has elected not to do so.

In the Matter of
GARY W. GORSKI (#166526)

Case number(s):
10-C-9659, 10-C-10258-LMA

Substance Abuse Conditions

- a. ☒ Respondent must abstain from use of any alcoholic beverages, and shall not use or possess any narcotics, dangerous or restricted drugs, controlled substances, marijuana, or associated paraphernalia, except with a valid prescription.
- b. ☐ Respondent must attend at least 4 meetings per month of:
- ☐ Alcoholics Anonymous
 - ☐ Narcotics Anonymous
 - ☐ The Other Bar
 - ☒ Other program ATTENDANCE AT ABSTINENCE BASED GROUP

Respondent shall attend at least four (4) meetings per month ~~(at least one meeting per week)~~ of an abstinence based self-help group of his own choosing, including, inter alia, Alcoholics Anonymous, Narcotics Anonymous, Life Ring, S.M.A.R.T., S.O.S. Other self-help maintenance programs are acceptable if they include: (i) a subculture to support recovery (meetings); and (ii) a process of personal development that does not have financial barriers. (See O'Conner v. California (C.D. Calif. 1994) 855 F. Supp 303 [No first amendment violation where probationer given choice between AA and secular program].) The program called "Moderation Management" is not acceptable because it allows participants to continue to consume alcohol.

Before respondent attends the first self help group meeting, he shall contact the Office of Probation and obtain approval for the program that he has selected.

As a separate reporting requirement, Respondent must provide to the Office of Probation satisfactory proof of attendance during each month, on or before the tenth (10th) day of the following month, during the condition or probation period.

- c. ☒ Respondent must select a license medical laboratory approved by the Office of Probation. Respondent must furnish to the laboratory blood and/or urine samples as may be required to show that Respondent has abstained from alcohol and/or drugs. The samples must be furnished to the laboratory in such a manner as may be specified by the laboratory to ensure specimen integrity. Respondent must cause the laboratory to provide to the Office of Probation, at the Respondent's expense, a screening report on or before the tenth day of each month of the condition or probation period, containing an analysis of Respondent's blood and/or urine obtained not more than ten (10) days previously.
- d. ☒ Respondent must maintain with the Office of Probation a current address and a current telephone number at which Respondent can be reached. Respondent must return any call from the Office of Probation concerning testing of Respondent's blood or urine within

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

twelve (12) hours. For good cause, the Office of Probation may require Respondent to deliver Respondent's urine and/or blood sample(s) for additional reports to the laboratory described above no later than six hours after actual notice to Respondent that the Office of Probation requires an additional screening report.

- e. ☒ Upon the request of the Office of Probation, Respondent must provide the Office of Probation with medical waivers and access to all of Respondent's medical records. Revocation of any medical waiver is a violation of this condition. Any medical records obtained by the Office of Probation are confidential and no information concerning them or their contents will be given to anyone except members of the Office of Probation, Office of the Chief Trial Counsel, and the State Bar Court who are directly involved with maintaining, enforcing or adjudicating this condition.

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| In the Matter of: GARY W. GORSKI (#166526) | Case number(s): 10-C-9659, 10-C-10258-LMA |
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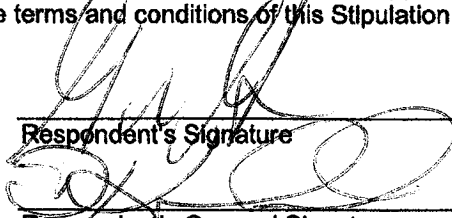
SIGNATURE OF THE PARTIES

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.

Date

8/31/11

Respondent's Signature



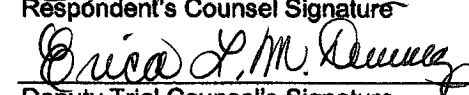
Gary W. Gorski

Print Name

Date

8/31/11

Respondent's Counsel Signature



Daniel Karalash

Print Name

Date

2 September 2011

Deputy Trial Counsel's Signature

Erica L. M. Dennings

Print Name

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| In the Matter of: GARY W. GORSKI (#166526) | Case Number(s): 10-C-9659, 10-C-10258-LMA |
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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:

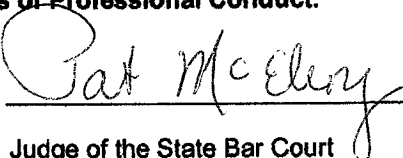
- ☒ The stipulated facts and disposition are APPROVED AND THE REPROVAL IMPOSED.
- ☐ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- ☐ All court dates in the Hearing Department are vacated.

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

Sept. 23, 2011


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 September 23, 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:

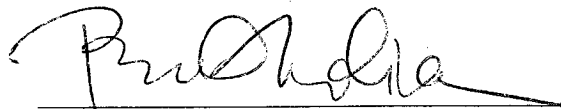
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

DANIEL M. KARALASH
STRATEGIC LAW COMMAND
1207 FRONT ST STE 15
SACRAMENTO, CA 95814

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

ERICA L. M. DENNINGS, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on September 23, 2011.



Bernadette C.O. Molina
Case Administrator
State Bar Court