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PUBLIC MATTER

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| State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION | | | FILED JUL 06 2011 STATE BAR COURT CLERK'S OFFICE LOS ANGELES |
| Counsel For The State Bar Anthony J. Garcia Deputy Trial Counsel Office of the Chief Trial Counsel 1149 South Hill Street, 10th Fl Los Angeles, CA 90015 Telephone: (213) 765-1089 Bar # 171419 | Case Number(s): 10-0-02307 | For Court use on JUL 06 2011 STATE BAR COURT CLERK'S OFFICE LOS ANGELES | |
| Counsel For Respondent Arthur Margolis Margolis & Margolis LLP 2000 Riverside Dr. Los Angeles, CA 90039 Telephone: (323) 953-8996 Bar # 57703 | Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING | | |
| In the Matter of: Rita Mahdessian Bar # 141901 A Member of the State Bar of California (Respondent) | 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 November 20, 1989.
- (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.

(Effective January 1, 2011)



- (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):
 - ☐ Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - ☒ Costs are to be paid in equal amounts prior to February 1 for the following membership years: 2012, 2013. (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 94-C-13451
 - (b) ☐ Date prior discipline effective September 12, 1996
 - (c) ☐ Rules of Professional Conduct/ State Bar Act violations: Business and Profession Code section 6106
 - (d) ☐ Degree of prior discipline 2 years actual suspension
 - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below.

02-0-14394, 02-0-15643 effective November 12, 2005, Rule of Professional conduct 1-300(A), 3-110(A), 6068(m), 90 days actual suspension
- (2) ☐ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.

- (4) ☐ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) ☐ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances:

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

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) ☐ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) ☐ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$ on in restitution to without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted in good faith.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (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 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:
- (b) ☐ The above-referenced suspension is stayed.

(2) ☒ **Probation:**

Respondent must be 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)

(3) ☐ **Actual Suspension:**

- (a) ☒ Respondent must be actually suspended from the practice of law in the State of California for a period of 5 months.
- 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:

E. Additional Conditions of Probation:

- (1) ☐ If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in the general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.

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- (2) ☒ During the probation period, 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 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.

- (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 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.
- (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 probation conditions.
- (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) ☐ The following conditions are attached hereto and incorporated:
 - ☐ Substance Abuse Conditions ☐ Law Office Management Conditions
 - ☐ Medical Conditions ☐ 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 during the period of actual suspension or within one year, whichever period is longer. **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) ☒ **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) ☐ **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) ☐ **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) ☐ **Other Conditions:**

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

IN THE MATTER OF: Rita Mahdessian

CASE NUMBER(S): 10-O-02307

FACTS AND CONCLUSIONS OF LAW

Rita Mahdessian ("Respondent") admits that the following facts are true and that she is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

Case No. 10-O-02307 (Complainant: Marieta Nikoghosyan)

FACTS:

1. In July 2005, the United States Citizenship and Immigration Services ("USCIS") denied Marieta Nikoghosyan's ("Nikoghosyan") asylum application.

2. In August 2005, Nikoghosyan hired Respondent to appeal the denial of her asylum claim to the Board of Immigration Appeals ("BIA"). Nikoghosyan paid Respondent approximately \$2,000 for her legal services.

3. On August 11, 2005, Respondent filed a "Notice of Appeal from a Decision of an Immigration Judge" with the BIA.

4. On August 17, 2005, BIA mailed a filing receipt to Respondent. The filing receipt contained the following instruction; "Proof of service on the opposing party at the address above is required for ALL submissions to the Board of Immigration Appeals." Respondent received the filing receipt.

5. On February 16, 2006, BIA mailed a briefing schedule to Respondent regarding Nikoghosyan's appeal. Respondent received the briefing schedule.

6. Pursuant to the briefing schedule, Nikoghosyan's opening brief was due on March 9, 2006.

7. The briefing schedule contained the following instruction; "Proof of service on the opposing party at the address above is required for all transmissions to the Board of Immigration Appeals." (emphasis in original)

8. On or about March 9, 2006, Respondent delivered an opening brief, on Nikoghosyan's behalf, to the BIA. The opening brief did not include a proof of service.

9. Later that same day, Respondent sent a proof of service, alone with nothing else, to the BIA. Respondent apparently intended the proof of service to be considered part of Nikoghosyan's opening brief, but the proof of service that Respondent submitted to the BIA did not contain any identifying information on it. It did not refer to Nikoghosyan's "A" number¹, it did not have a caption attached, a case number, or even a name that would allow USCIS to connect the proof of service to Nikoghosyan's opening brief.

10. On March 14, 2006, BIA rejected Nikoghosyan's opening brief, because it did not contain a proof of service.

11. On March 15, 2006, BIA returned the proof of service to Respondent because it did not have an "A" number or any other information identifying it as a document filed on behalf of Nikoghosyan, and because there was no brief attached to the proof of service.

¹ The "A" number is the unique numerical identifier assigned to each applicant or petitioner by the USCIS.

12. On or about March 23, 2006, Respondent filed a motion asking BIA to accept her late-filed brief.

13. On or about April 14, 2006, BIA denied Respondent's motion to accept her late-filed brief.

CONCLUSIONS OF LAW:

14. By filing an opening brief with BIA without a proof of service, by sending a proof of service to the BIA with no brief attached or with any information attached to it that identified it as the proof of service for Nikoghosyan's opening brief, and due to the fact that Respondent's actions led to the BIA to dismiss Nikoghosyan's appeal, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence.

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was May 20, 2011.

MITIGATION

Respondent is receiving substantial mitigation credit for accepting responsibility for her actions and for doing so at this early stage of the proceedings.

Respondent has contributed her time and service to several organizations in her community including, but not limited to, the following:

- Founding member/Board of Trustees of a charter school;
- President of Friends of a university language and cultural studies program;
- Acting secretary of a cultural/historical society;
- Founding member/Board of Trustees of a organization promoting peace.

AUTHORITIES SUPPORTING DISCIPLINE.

Standards

Standard 1.7(a) which states that if a member has a prior discipline, the degree of discipline in the current proceeding shall be greater than the discipline imposed in the prior proceeding unless the prior discipline was so remote in time to the current proceeding and the offense for which it was imposed was so minimal in severity that imposing greater discipline in the current proceeding would be manifestly unjust.

Cases

Selznick v. State Bar of California 16 Cal. 3d 704, 708

An attorneys failure to perform legal services for which an attorney has been retained in itself warrants disciplinary action, even when if that attorneys action could be characterized as grossly negligent, or careless rather than willful and dishonest (citations).

In this case, Respondent's failure to file a brief that contained a proof of service and her subsequent failure to correct her error was willful and reckless.

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| In the Matter of RITA MAHDESSIAN | Case number(s): 10-O-02307 |
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SIGNATURE OF THE PARTIES

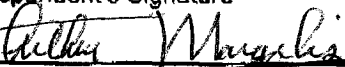
By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Fact, Conclusions of Law and Disposition.

6/7/11
Date


Respondent's Signature

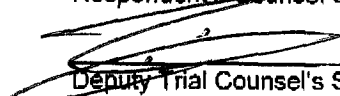
Rita Mahdessian
Print Name

6/9/11
Date


Respondent's Counsel Signature

Arthur Margolis
Print Name

6/10/11
Date


Deputy Trial Counsel's Signature

Anthony Garcia
Print Name

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In the Matter Of
RITA MAHDESIAN

Case Number(s):
10-O-02307

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) At page 4 of the stipulation, an "X" is inserted in box D(1)(b).
 - 2) At page 4 of the stipulation, an "X" is inserted in box D(3).

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.)**

Date

7/6/11


Richard A. Honn
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 Los Angeles, on July 6, 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 Los Angeles, California, addressed as follows:

ARTHUR LEWIS MARGOLIS
MARGOLIS & MARGOLIS LLP
2000 RIVERSIDE DR
LOS ANGELES, CA 90039

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

Anthony J. Garcia, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on July 6, 2011.



Johnnie Lee Smith
Case Administrator
State Bar Court