

(Do not write above this line.)

State Bar Court of California Hearing Department Los Angeles REPROVAL		NOT FOR PUBLICATION
Counsel For The State Bar Kevin B. Taylor State Bar of California 1149 S. Hill St Los Angeles, CA 90015 213 765-1630 Bar # 151715	Case Number(s): 11-C-14965-RAH <div style="text-align: center; font-size: 1.2em; font-weight: bold;">PUBLIC MATTER</div>	For Court use only <div style="text-align: center;"> FILED DEC 27 2011 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
Counsel For Respondent Ellen A. Pansky Pansky Markle Ham LLP 1010 Sycamore Ave, Ste. 308 South Pasadena, CA 91030 213 626-7300 Bar # 77688	Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING	
In the Matter of: Marilyn Seymour Bar # 121992 A Member of the State Bar of California (Respondent)	<div style="font-weight: bold;">PRIVATE REPROVAL</div> <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, 1985.
- (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.



(Do not write above this line.)

- (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 (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."
- (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 was candid and cooperative with law enforcement at the scene of the automobile accident she was involved in. Respondent admitted her liability in the personal injury matter initiated against her as a result of the automobile accident. Respondent readily admitted her responsibility, acknowledged her wrongdoing and was cooperative with the State Bar during the proceedings in 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. Respondent was and is remorseful for her conduct and demonstrated same by admitting her responsibility at the scene of the automobile accident she was involved in and by admitting her liability during the civil action that arose from that accident.
- (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. Many character witnesses attested to Respondent's good character and their belief that her misconduct, although serious, was aberrational.
- (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:

Respondent has no record of prior discipline since being admitted to the State Bar in December 1985.

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 reprobation. 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 reprobation 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 reprobation.
- (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 reprobation.

No MPRE recommended. Reason: The protection of the public does not require passage of the MPRE in this case. See In the Matter of Respondent G (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 181 .

- (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 |

(Do not write above this line.)

F. Other Conditions Negotiated by the Parties:

Not applicable.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: MARILYN SEYMOUR

CASE NUMBER: 11-C-14965-RAH

FACTS AND CONCLUSIONS OF LAW.

1. Respondent admits that the following facts are true and that the facts and circumstances surrounding her criminal conviction involve misconduct warranting discipline.

PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING:

2. 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.

3. On March 29, 2011, Respondent was convicted of violating California Vehicle Code sections 23153(A) and 23153(B).

4. On September 6, 2011, the Review Department of the State Bar Court issued an order referring this matter to the Hearing Department on the following issues: Conduct a hearing and make a determination as to whether the facts and circumstances surrounding Respondent's misdemeanor violations of California Vehicle Code sections 23153(A) and 23153(B) involved moral turpitude or other misconduct warranting discipline.

FACTS:

5. On April 2, 2010, Respondent operated her vehicle after consuming alcohol earlier that evening. While driving on Pacific Coast Highway in Long Beach, California, she caused an automobile accident by hitting the rear end of another car. The accident caused the two occupants of the adverse vehicle to suffer bodily injury.

6. After causing the automobile accident, Respondent remained at the scene of the accident until law enforcement arrived. Once law enforcement arrived, Respondent admitted having caused the accident and that she had consumed alcohol earlier that evening. Respondent was cooperative with law enforcement at all times.

7. Respondent was arrested at the scene of the accident for operating a motor vehicle while under the influence of alcohol.

8. Thereafter, Respondent submitted to a blood alcohol test which revealed that her blood alcohol content was .26%.

9. On July 27, 2010, Respondent was charged with misdemeanor violations of California Vehicle Code sections 23153(A), driving while under the influence of alcohol and causing injury and 23153(B), driving with a blood alcohol content of .08% or more and causing injury. On March 29, 2011, Respondent pled nolo contendere to both charges and was convicted of violating same.

10. At the time of her conviction, Respondent had no record of prior convictions for operating a vehicle under the influence of alcohol or other prohibited substance.

11. Respondent was sentenced to 90 days incarceration with the option of serving her sentence under home detention. Respondent initially served her sentence under home detention, but on June 21, 2011 sought and obtained a court order converting her sentence to incarceration in the Los Angeles County jail. Respondent completed her incarceration after serving a total of five days.

12. Respondent was also sentenced to five years summary probation and completion of a nine month AB 1353 alcohol program. Respondent completed that program, which included both group and individual therapy sessions.

13. Respondent paid fines, fees and costs of approximately \$2,502 in her criminal proceeding.

14. The individuals injured in the automobile accident caused by Respondent filed a personal injury action against her. Respondent admitted liability in that action, which has been settled.

CONCLUSIONS OF LAW:

15. The facts and circumstances surrounding Respondent's violation of California Vehicle Code sections 23153(A) and 23153(B) do not involve moral turpitude but do involve other misconduct warranting discipline.

PENDING PROCEEDINGS.

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

AUTHORITIES SUPPORTING DISCIPLINE.

Although first time misdemeanor convictions for driving a motor vehicle while under the influence of alcohol do not automatically result in State Bar discipline, discipline may be appropriate where there are aggravating facts and circumstances surrounding the conviction. (See generally *In the Matter of Respondent I* (Rev. Dept. 1993) 2 Cal. St. Bar Ct. Rptr. 260, 266 footnote 6, re referral of first time DUI convictions.)

In *In re Kelley* (1990) 52 Cal.3d 487, 496, the Supreme Court noted that where behavior evidences a lack of respect for the legal system and an alcohol problem which may affect one's ability to practice law, the Court has a responsibility to impose discipline which will protect the public from potential harm.

In light of Respondent's blood alcohol level at the time of the automobile accident, this matter involves conduct which warrants discipline.

The parties submit that in light of Respondent's mitigation, this private reproof and the terms attached thereto, along with the conditions attached to her criminal probation, including her completion of the AB 1353 alcohol program, will serve to adequately protect the public.

(Do not write above this line.)

In the Matter of: Marilyn Seymour	Case number(s): 11-C-14965-RAH
--------------------------------------	-----------------------------------

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.

<u>12/14/11</u> Date	<u>Marilyn Seymour</u> Respondent's Signature	<u>Marilyn Seymour</u> Print Name
<u>12/16/11</u> Date	<u>Ellen A. Pansky</u> Respondent's Counsel Signature	<u>Ellen A. Pansky</u> Print Name
<u>12/19/11</u> Date	<u>Kevin B. Taylor</u> Deputy Trial Counsel's Signature	<u>Kevin B. Taylor</u> Print Name

(Do not write above this line.)

In the Matter of:
Marilyn Seymour

Case Number(s):
11-C-14965-RAH

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:

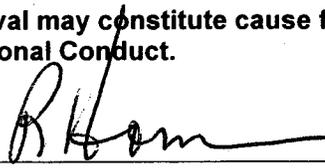
- The stipulated facts and disposition are APPROVED AND THE REPROVAL IMPOSED.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- All court dates in the Hearing Department are vacated.

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

12-22-11


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 December 27, 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:

ELLEN ANNE PANSKY
PANSKY MARKLE HAM LLP
1010 SYCAMORE AVE UNIT 308
SOUTH PASADENA, CA 91030

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

Kevin B. Taylor, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 27, 2011.



Cristina Potter
Case Administrator
State Bar Court