

(Do not write above this line.)

State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION			PUBLIC MATTER
Counsel For The State Bar Mia R. Ellis Deputy Trial Counsel 1149 South Hill Street Los Angeles, CA 90015 213-765-1380 Bar # 228235	Case Number(s): 11-C-15385-DFM 11-C-19364 12-C-12888	For Court use only <div style="text-align: center;"> FILED MAY 20 2013 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>	
In Pro Per Respondent Marlon Magdadar Alo 468 North Camden Drive #222 Beverly Hills, CA 90210 213-386-5354 Bar # 143338	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED		
In the Matter of: MARLON MAGDADARO ALO Bar # 143338 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 December 11, 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 19 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."

(Effective January 1, 2011)



- (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: (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.
- (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. Please see stipulation page 16.
- (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. Please see stipulation page 16.
- (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:

Please see stipulation pages 16.

D. Discipline:

- (1) ☒ **Stayed Suspension:**

- (a) ☒ Respondent must be suspended from the practice of law for a period of two years.

- 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 three 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 six (6) 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.
- (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:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input checked="" 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 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:**

In the Matter of: Marlon Magdadaro Alo	Case Number(s): 11-C-15385, 11-C-19364, 12-C-12888
---	---

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 two (2) meetings per month of:

- ☒ Alcoholics Anonymous
- ☐ Narcotics Anonymous
- ☐ The Other Bar
- ☐ Other program

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 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.

Other:

Satisfactory proof of attendance at meetings shall include the name of Respondent's sponsor (if Respondent has a sponsor), address, telephone number, and any other contact information (e.g. fax, e-mail, etc.). Respondent is to provide this information to the Office of Probation within ten days of the effective

(Do not write above this line.)

date of the discipline and within ten days of any change in sponsor and/or the sponsor's address and/or telephone number and/or any other contact information.

Satisfactory proof of attendance at meetings shall also include the name of the meeting; the location of the meeting; and the name, address, telephone number, and other contact information (e.g. fax, e-mail, etc.) of the meeting secretary or other representative willing to assist the Office of Probation in confirming Respondent's attendance.

Respondent shall exert all efforts in gaining the assistance of Respondent's sponsor, meeting secretary, or other representative to assist the Office of Probation in confirming Respondent's attendance. Respondent shall provide proof of such efforts to the Office of Probation within ten days of any request for such proof.

It is not satisfactory proof of attendance for Respondent to sign as the verifier of Respondent's proof of attendance.

In the Matter of: Marlon Magdadaro Alo	Case Number(s): 11-C-15385, 11-C-19364, 12-C-12888
---	---

Medical Conditions

- a. ☐ Unless Respondent has been terminated from the Lawyer Assistance Program ("LAP") prior to respondent's successful completion of the LAP, respondent must comply with all provisions and conditions of respondent's Participation Agreement with the LAP and must provide an appropriate waiver authorizing the LAP to provide the Office of Probation and this court with information regarding the terms and conditions of respondent's participation in the LAP and respondent's compliance or non-compliance with LAP requirements. Revocation of the written waiver for release of LAP information is a violation of this condition. However, if respondent has successfully completed the LAP, respondent need not comply with this condition.
- b. ☐ Respondent must obtain psychiatric or psychological help/treatment from a duly licensed psychiatrist, psychologist, or clinical social worker at respondent's own expense a minimum of _____ times per month and must furnish evidence to the Office of Probation that respondent is so complying with each quarterly report. Help/treatment should commence immediately, and in any event, no later than thirty (30) days after the effective date of the discipline in this matter. Treatment must continue for _____ days or _____ months or _____ years or, the period of probation or until a motion to modify this condition is granted and that ruling becomes final.

If the treating psychiatrist, psychologist, or clinical social worker determines that there has been a substantial change in respondent's condition, respondent or Office of the Chief Trial Counsel may file a motion for modification of this condition with the Hearing Department of the State Bar Court, pursuant to rule 5.300 of the Rules of Procedure of the State Bar. The motion must be supported by a written statement from the psychiatrist, psychologist, or clinical social worker, by affidavit or under penalty of perjury, in support of the proposed modification.

- c. ☒ 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.

Other:

Respondent must obtain psychiatric treatment from a duly licensed psychiatrist at Respondent's own expense. Respondent has selected a medical doctor for the purpose of submitting to a psychiatric evaluation and treatment. The doctor's name is Dr. Lawrence Sporty ("psychiatrist"). Respondent currently sees the psychiatrist once per month. The psychiatrist will determine the course of treatment including how many times per month Respondent is to obtain treatment. Respondent must comply with the treatment recommended by the psychiatrist and must furnish evidence to the Office of Probation that Respondent is so complying with each quarterly report. Help/treatment should commence and/or continue immediately, and in any event, no later than thirty (30) days after the effective date of the discipline in this matter. Treatment must continue as required by the psychiatrist for the period of probation or until a motion to modify this condition is granted and that ruling becomes final.

Within 45 days of signing this stipulation, Respondent shall provide a complete copy of this stipulation to the psychiatrist. Within 30 days of the effective date of the discipline in this matter, Respondent shall

provide to the Office of Probation an original, signed declaration from the psychiatrist acknowledging receipt of a complete copy of this stipulation.

Within 45 days of signing this stipulation, Respondent shall execute all necessary waivers of confidentiality with the psychiatrist as well as any other treatment providers, including drug testing facilities.

Within 30 days of the effective date of the discipline in this matter, Respondent shall provide to the Office of Probation a copy of the waiver provided to the psychiatrist as well as all other treatment providers, including drug testing facilities. Also within 30 days of the effective date of the discipline in this matter, Respondent shall provide to the Office of Probation an original, signed declaration from the psychiatrist as well as all other treatment providers, including drug testing facilities, acknowledging receipt of the waiver.

Within 30 days of the effective date of the discipline in this matter, Respondent is to undergo an Evaluation with the psychiatrist. The Evaluation will be for the purposes of (a) determining whether Respondent has a current psychological diagnosis, (b) setting treatment conditions Respondent is to undertake as a result of the Evaluation, if any, and (c) obtaining a written report from the psychiatrist. Respondent shall bear all costs of the Evaluation, the resulting report, and any treatment conditions recommended by the psychiatrist. Respondent understands that his treatment conditions may change if the psychiatrist deems it necessary, and that he is to bear the cost of such treatment, which in some cases could include in-patient treatment. Respondent understands that (a) the treatment conditions, if any, shall become part of his probation requirements, (b) he must provide the Office of Probation with any proof of treatment compliance or waiver requested by the Office of Probation, and (c) any violation of the treatment conditions is a violation of the probation requirements.

Within 60 days of the effective date of the discipline in this matter, Respondent is to provide a copy of the psychiatrist's written report to the Office of Probation. If the psychiatrist requires additional information in order to propose treatment conditions, including, but not limited to, interviewing third parties, Respondent will make good faith efforts to timely provide the additional information. Respondent will provide proof of such good faith efforts to the Office of Probation within 10 days of any request.

Within 10 days of any change in treatment condition, Respondent is to provide written notice to the Office of Probation specifically setting forth the changes. With that written notice, Respondent is to provide an original, signed declaration from the psychiatrist acknowledging receipt of the written notice and agreement with its accuracy.

Respondent shall report compliance with the treatment conditions by statement under penalty of perjury in each written quarterly report to the Office of Probation required pursuant to the discipline in this matter.

Respondent shall have his psychiatrist submit to the Office of Probation an original, signed declaration that Respondent is in compliance with the treatment of conditions by each January 10, April 10, July 10, and October 10 covered by this discipline. Respondent understands that the declarations and reports may be shared with the Office of the Chief Trial Counsel and the State Bar Court.

Respondent understands that treatment conditions associated with other issues or entities, such as a criminal probation, may not satisfy treatment conditions required by this section.

If treatment providers are added or changed, Respondent must notify the Office of Probation of the name, address, and telephone number of all such treatment providers within ten days of the retaining of each one. Within 30 days of retaining each such treatment provider, Respondent must provide to the Office of Probation an original signed declaration from the treatment provider stating that it received a complete copy of this stipulation. Also within 30 days of retaining each such treatment provider, Respondent must provide to the Office of Probation an executed waiver of confidentiality as well as an original, signed declaration from the treatment providers acknowledging receipt of the waiver.

If the treating psychiatrist determines that there has been a substantial change in Respondent's condition, Respondent or Office of Chief Trial Counsel may file a motion for modification of this condition with the Hearing Department of the State Bar Court, pursuant to rule 5.300 of the Rules of Procedure of the State Bar. The motion must be supported by a written statement from the psychiatrist by affidavit or penalty of perjury, in support of the proposed modification.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Marlon Magdadaro Alo

CASE NUMBERS: 11-C-15385, 11-C-19364, 12-C-12888

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that the facts and circumstances surrounding the offenses for which he was convicted involve other misconduct warranting discipline.

Case No. 11-C-15385 (Conviction Proceeding)

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 October 10, 2012, Respondent was convicted of violating Penal Code Section 653m(a), making harassing telephone calls.
3. On December 7, 2012, the Review Department of the State Bar Court 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 Hearing Department finds that the facts and circumstances surrounding the offense(s) for which Respondent was convicted involved moral turpitude or other misconduct warranting discipline.

FACTS:

4. In 2007, attorney Donna Bader (Bader) completed a consulting job for Respondent. In 2009, Respondent called Bader again about working on another consulting job. Bader declined.
5. In November 2010, Respondent began to call Bader repeatedly. Sometimes, Respondent left voicemail messages and sometimes he did not. In the messages, Respondent stated that he was in love with Bader, wanted to make her happy, asked for forgiveness, and asked if Bader was still mad at him. Respondent also emailed poetry to Bader. When Respondent did not leave voicemail messages, Bader's phone system maintained a log of all incoming calls. She identified Respondent's phone number.
6. On January 4, 2011, Bader sent Respondent a certified letter asking him not to contact her. Respondent received Bader's letter but continued to call her.
7. On March 10, 2011, Bader contacted the Laguna Beach Police Department. Police officers took an incident/investigation report. Laguna Beach Police Officers contacted Respondent and advised Respondent that if he continued to call Bader, criminal charges would be filed. Respondent continued to call Bader through July 26, 2011.

8. On July 26, 2011, Laguna Beach Police Officers arrested Respondent. On the same day, an emergency protective order was issued against Respondent preventing him from having any future contacts with Bader. Respondent received the order.

9. On July 27, 2011, the Orange County District Attorney's Office filed a complaint against Respondent, Orange County Superior Court case number 11HM12007, charging him with one count of violating Penal Code section 653m (b), by making annoying telephone calls to Bader between April 9, 2011 and April 27, 2011.

10. On August 3, 2011, the Orange County District Attorney's Office filed another complaint against Respondent, Orange County Superior Court case number 11HM12586, charging him with ten counts of violating Penal Code section 653m (a), by making harassing phone calls to Bader between July 16, 2011 and July 26, 2011.

11. On August 9, 2011, Respondent was arraigned. The same day, the Court issued a protective order, ordering Respondent not to have contact with Bader (the criminal protective order). Respondent received a copy of the criminal protective order.

12. On August 17, 2011, Bader sought a restraining order against Respondent to stop his harassment. On the same day, the Court issued the restraining order, ordering Respondent, among other things, to not have any contact with Bader, and to stay 100 yards away from her (the civil restraining order). Respondent received the civil restraining order.

13. On October 10, 2012, as part of a plea bargain, Respondent pled guilty to four misdemeanor counts of violating Penal Code section 653m (a), making harassing telephone calls, in case number 11HM12586. The other six counts in case number 11HM12586 were dismissed and case number 11HM12007 was dismissed as part of the plea bargain.

14. The Court sentenced Respondent to 90 days in jail, stayed imposition of the sentence, placed Respondent on three (3) years of probation, and ordered Respondent to participate in a six (6) month outpatient program with Dr. Sporty.

CONCLUSIONS OF LAW:

15. The facts and circumstances surrounding the above-described violations did not involve moral turpitude but did involve other misconduct warranting discipline.

Case No. 11-C-19364 (Conviction Proceeding)

PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING:

16. 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.

17. On October 10, 2012, Respondent was convicted of violating Penal Code Section 653m (a), making harassing telephone calls.

18. On December 7, 2012, the Review Department of the State Bar Court 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 Hearing Department finds that the facts and circumstances surrounding the offense(s) for which Respondent was convicted involved moral turpitude or other misconduct warranting discipline.

FACTS:

19. On November 22, 2011, Respondent began calling Bader repeatedly again in violation of the criminal protective order and the civil restraining order. Respondent had a blocked phone number and Respondent called Bader using a blocked number. Bader did not accept calls from blocked phone numbers. Respondent did not leave voicemail messages, but Bader's phone system was designed to identify Respondent's phone number and maintained a log of all incoming calls.

20. At times, Respondent called Bader and Bader answered the phone. In those phone calls, Respondent again stated that he was in love with Bader, wanted to make her happy, asked for forgiveness, and asked if Bader was still mad at him.

21. On November 27, 2011, Respondent called Bader several times and went to her home to deliver flowers. When confronted by Bader's boyfriend, Respondent fled.

22. On November 29, 2011, Laguna Beach Police Officers arrested Respondent. They charged him with violating Penal Code section 653m (a), making harassing telephone calls, and section 166(a)(4), disobeying a court order.

23. On December 13, 2011, the Orange County District Attorney's Office filed a complaint against Respondent, Orange County Superior Court case number 11HM17951, charging him with six counts of violating Penal Code section 653m (a), by making harassing telephone calls to Bader between November 22, 2011 and November 27, 2011.

24. On October 10, 2012, as part of a plea bargain, Respondent pled guilty to one misdemeanor count of violating Penal Code Section 653m (a), making harassing telephone calls. The other five counts were dismissed as part of the plea bargain.

25. The Court sentenced Respondent to 90 days in jail, stayed imposition of the sentence, placed Respondent on three (3) years of probation, and ordered Respondent to participate in a six (6) month outpatient program with Dr. Sporty.

CONCLUSIONS OF LAW:

26. The facts and circumstances surrounding the above-described violations did not involve moral turpitude but did involve other misconduct warranting discipline.

Case No. 12-C-12888 (Conviction Proceeding)

PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING:

27. 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.

28. On October 10, 2012, Respondent was convicted of violating Penal Code Section 166(a)(4), disobeying a court order.

29. On January 2, 2013, the Review Department of the State Bar Court 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 Hearing Department finds that the facts and circumstances surrounding the offense(s) for which Respondent was convicted involved moral turpitude or other misconduct warranting discipline.

FACTS:

30. From February 21, 2012 to March 2, 2012, Respondent repeatedly called Bader, in violation of the criminal protective order issued and the civil restraining order. Respondent had a blocked phone number and Bader did not accept calls from blocked phone numbers. Respondent did not leave voicemail messages, but Bader's phone system was designed to identify Respondent's phone number and maintained a log of all incoming calls. She identified Respondent's phone number.

31. On March 2, 2012, Laguna Beach Police Officers arrested Respondent and charged him with violating Penal Code section 166(a)(4).

32. On March 5, 2012, the Orange County District Attorney's Office filed a complaint against Respondent, Orange County Superior Court case number 12HM03145, charging him with six counts of violating Penal Code section 166 (a)(4), by disobeying the criminal protective order that was issued on August 9, 2011 by the Superior Court in case number 11HM12586, from February 21, 2012 to March 2, 2012.

33. On October 10, 2012, as part of a plea bargain, Respondent pled guilty to one misdemeanor count of violating Penal Code Section 166(a)(4), disobeying a court order. The other five counts were dismissed as part of a plea bargain.

34. The Court sentenced Respondent to 90 days in jail, stayed imposition of the sentence, placed Respondent on three (3) years of probation, and ordered Respondent to participate in a six (6) month outpatient program with Dr. Sporty.

CONCLUSIONS OF LAW:

35. The facts and circumstances surrounding the above-described violations did not involve moral turpitude but did involve other misconduct warranting discipline.

ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.

Harm (Std. 1.2(b)(iv)): Respondent's misconduct caused significant harm to Donna Bader. Ms. Bader feared for her safety as Respondent repeatedly called her, even after the civil restraining order and criminal protective order were issued. (Standard 1.2(b)(iv).)

Multiple Acts of Misconduct (Std. 1.2(b)(ii)): Respondent's conduct involved multiple acts of wrongdoing as he continued to call Bader repeatedly in violation of the civil restraining order and criminal protective order. (Standard 1.2(b)(ii).)

ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.

Additional Mitigating Circumstances:

No Prior Record of Discipline: Respondent has been a member of the bar for 22 years and has no prior record of discipline. However, the misconduct in the instant case is serious so Respondent is entitled to some, but not great weight, in mitigation. (*Hawes v. State Bar* (1990) 51 Cal. 3rd 587, 59. See also *In the Matter of Stamper* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 96, 106, fn 13, citing *Cooper v. State Bar* (1987) 43 Cal. 3rd 1016, 1029 and noting that the Supreme Court has repeatedly given mitigation for no prior record of discipline in cases in which the misconduct was serious.)

Pretrial Stipulation: Respondent is entitled to mitigation for entering into a full stipulation with the Office of Chief Trial Counsel prior to the trial, thereby saving State Bar Court time and resources. (*In re Downey* (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151, 156; *In the Matter of Van Sickle* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980, 993-994.) However, the surrounding facts and circumstances in these matters could have been easily proven. Thus, Respondent's cooperation is entitled to some, but not great, weight in mitigation.

Emotional/Physical Difficulties: Prior to being convicted of violating Penal Code sections 653m and 166(a)(4), Respondent sought, received, and continues to receive treatment from a licensed psychiatrist for diagnosed delusional disorder, erotomanic type, alcohol dependence, and mood disorder. According to Respondent, he stopped drinking on February 13, 2012. According to the psychiatrist, Respondent's mental health issues and substance abuse caused the misconduct. The psychiatrist opines that Respondent no longer suffers from erotomanic type, no longer suffers from delusions and no longer desires contact with Bader. Respondent continues to treat with his psychiatrist who has recommended that Respondent continue to participate in Alcohol Anonymous (AA), continue treatment, and continue taking antidepressants as prescribed. (*In the Matter of John Deierling*, (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 552, 560-561, states that the court does not require that the respondent's rehabilitation be complete to qualify as mitigating. Further, Deierling presented convincing, uncontradicted testimony showing that his long time marijuana use and alcohol abuse at least in part led to his marijuana cultivation and that he successfully dealt with his addiction by maintaining sobriety.)

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct provide a "process of fixing discipline" pursuant to a set of written principles to "better discharge the purposes of attorney discipline as announced by the Supreme Court." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, Introduction (all further references to standards are to this source).) The primary

purposes of disciplinary proceedings and of the sanctions imposed are “the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession.” (*In re Morse* (1995) 11 Cal.4th 184, 205; std. 1.3.)

Although not binding, the standards are entitled to “great weight” and should be followed “whenever possible” in determining level of discipline. (*In re Silverton* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) Any discipline recommendation different from that set forth in the applicable standards should clearly explain the reasons for the deviation. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

Standard 3.4 provides that a final conviction of a member which does not involve moral turpitude, but does involve other misconduct warranting discipline shall result in a sanction as prescribed under part B of the standards. Accordingly, standard 2.10 provides that culpability of a member of a violation of any provision of the Business and Professions Code not specified in the standards or of a wilful violation of any Rule of Professional Conduct not specified in the standards shall result in reproof or suspension according to the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3.

Here, Respondent’s conduct was egregious. Respondent’s misconduct caused significant harm to Bader as she feared for her safety. She repeatedly contacted law enforcement and, in addition to the criminal protective order, she also sought a civil restraining order to protect herself. However, Respondent violated those orders. Bader asked Respondent to stop calling her and he repeatedly ignored her requests. Laguna Beach Police Officers also advised Respondent to stop calling Bader. He failed to do so. Even more aggravating, Respondent continued to contact Bader, including sending her flowers, after he received notice of the civil restraining order and the criminal protective order. Also, Respondent’s repeated phone calls to Bader occurred over a period of one year. As part of his criminal probation, Respondent began seeing psychiatrist Dr. Lawrence Sporty. Dr. Sporty diagnosed Respondent with delusional disorder, erotomatic type, which he believes is secondary to severe depression, alcoholism or both. Dr. Sporty believes Respondent’s depression was caused by alcohol and recommended that Respondent participate in AA. While Dr. Sporty indicates that Respondent no longer suffers from delusions, he should continue treatment and participate in AA. Therefore, in view of the gravity of the offense and the harm to Bader, with due regard to the purposes of imposing discipline, six months actual suspension is appropriate under standard 2.10.

In the Matter of Elkins (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160, is also instructive. The court suspended Elkins for two years, stayed imposition of the suspension, and placed him on two years probation on condition that he be actually suspended for ninety (90) days. The Court found Elkins culpable of violating Business and Professions Code section 6106 by sending numerous threatening voicemail messages to two attorneys in an estate matter. Elkins left messages that the attorney would regret “messing” with Elkins, that the attorney should “watch his step” etc. Once a restraining order was in effect, Elkins stopped making calls. The Court also found Elkins culpable of violating rule 5-100(A) (threatening criminal, administrative, or disciplinary charges), Business and Professions Code section 6068(b) (failing to maintain the respect due to the courts of justice and judicial officers), and Business and Professions code section 6068(j) (failing to update membership records). In mitigation, the Court

found that Elkins had no prior record of discipline and suffered extreme emotional difficulties due to the death of his father. In aggravation, the Court found harm, multiple acts of misconduct, and lack of insight.

Respondent's mitigation is similar to that in *Elkins* in that Respondent has no prior record of discipline and suffered emotional and physical difficulties at the time of the misconduct. The aggravation in this case also is similar to the aggravation in *Elkins* and includes multiple acts of misconduct and harm, but lack of insight was an additional factor in aggravation in *Elkins*. However, Respondent's misconduct is distinguishable from the misconduct in *Elkins*. Unlike Elkins who made repeated, direct threats to his victims, Respondent did not make any threats to Bader. Further, although Elkins' misconduct was committed in his private capacity, the misconduct was at least related to the practice of law in that he attempted to use his status as an attorney to leverage his threats. In contrast, Respondent's misconduct was not related to the practice of law. Finally, the court found that Elkins' misconduct was intentionally harassing. However, Respondent's misconduct was not motivated by spite or vindictiveness but rather was caused by emotional and physical difficulties diagnosed by Dr. Sporty, including delusions. For these reasons, although Respondent's misconduct constitutes other misconduct warranting discipline, it does not involve moral turpitude like the misconduct in *Elkins*. However, unlike Elkins who ceased making the harassing telephone calls after a restraining order was issued, Respondent continued to make harassing telephone calls even after the criminal protective order and the civil restraining order were issued, in direct violation of those orders. Accordingly, the discipline imposed on Respondent should be greater than the discipline imposed in *Elkins*.

PENDING PROCEEDINGS.

The disclosure date referred to on page 2, paragraph A(7), was May 1, 2013.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of May 1, 2013, the prosecution costs in this matter are \$7,029. 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.

EXCLUSION FROM MCLE CREDIT

Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of: Marlon Magdadaro Alo	Case number(s): 11-C-15385-DFM 11-C-19364 12-C-12888
---	---

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 <u>5/3/13</u>	Respondent's Signature <u>Marlon Alo</u>	Marlon Alo Print Name
Date <u>5/3/13</u>	Respondent's Counsel Signature <u>Mia Ellis</u>	Mia Ellis Print Name

(Do not write above this line.)

In the Matter of: Marlon Magdadarro Alo	Case Number(s): 11-C-15385-DFM 11-C-19364 12-C-12888
--	---

ACTUAL 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.

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

5/15/13


DONALD F. MILES
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 May 20, 2013, 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:

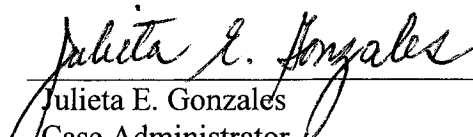
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

MARLON M ALO ESQ
468 N CAMDEN DR # 222
BEVERLY HILLS, CA 90210

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

Mia R. Ellis, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on May 20, 2013.



Julieta E. Gonzales
Case Administrator
State Bar Court