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SEP 26 2016

STATE BAR COURT OF CALIFORNIA STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of)	Case Nos.: 11-C-19357-LMA
)	12-C-10098 (Cons.)
MARK GINALSKI,)	
)	DECISION AND DISCIPLINE ORDER;
Member No. 133828,)	ORDER SEALING CERTAIN
)	DOCUMENTS
A Member of the State Bar.)	
_____)	

Introduction

In this disciplinary proceeding, respondent Mark Ginalski (Respondent) was accepted for participation in the State Bar Court’s Alternative Discipline Program (ADP). As the court has now terminated Respondent from the ADP, the court orders, among other things, that Respondent receive a public reproof.

Pertinent Procedural History

On May 13, 2003, Respondent pled guilty to and was convicted of driving under the influence of an alcoholic beverage (California Vehicle Code section 23152(a)). Approximately nine years later, on July 13, 2012, Respondent pled guilty to and received a second conviction for driving under the influence of an alcoholic beverage.¹



¹ Based on the same conduct, Respondent was also charged with and pled guilty to driving with a blood-alcohol content of .08% or higher (California Vehicle Code section 23152(b)).

On October 21, 2013, the Office of Chief Trial Counsel of the State Bar of California (State Bar) transmitted a certified copy of Respondent's May 13, 2003 conviction to the State Bar Court pursuant to sections 6101-6102 and California Rules of Court, rule 9.5, et seq. On November 19, 2013, the State Bar transmitted a certified copy of Respondent's July 13, 2012 conviction to the State Bar Court.²

On November 8 and December 26, 2013, the Review Department of the State Bar Court issued orders referring Respondent's convictions to the Hearing Department for a hearing and decision recommending the discipline to be imposed in the event that the facts and circumstances surrounding Respondent's convictions were found to involve moral turpitude or other misconduct warranting discipline.

Respondent sought to participate in the State Bar Court's ADP. This matter was referred to the ADP on March 10, 2014. On March 25, 2014, Respondent contacted the State Bar's Lawyer Assistance Program (LAP) to assist him with his substance abuse issue. On April 7, 2014, Respondent submitted a declaration to the court, establishing a nexus between his substance abuse issue and the charges in this matter.

The parties entered into a Stipulation Re Facts and Conclusions of Law (Stipulation) on April 7, 2014. The Stipulation set forth the factual findings, legal conclusions, and mitigating and aggravating circumstances. The Stipulation was received by the court on April 7, 2014. On June 27, 2014, Respondent signed a LAP Participation Plan.

Following briefing by the parties, the court issued a Confidential Statement of Alternative Dispositions and Orders dated August 25, 2014, formally advising the parties of: (1) the discipline which would be ordered if Respondent successfully completed the ADP; and (2) the

² The State Bar originally transmitted proof of Respondent's July 13, 2012 conviction to the State Bar Court on October 21, 2013, but the conviction was not yet final.

discipline which would be ordered if Respondent failed to successfully complete or was terminated from the ADP. After agreeing to those alternative dispositions, Respondent executed the Contract and Waiver for Participation in the State Bar Court's ADP. The court then accepted Respondent for participation in the ADP, and his period of participation in the ADP began on August 25, 2014.

Respondent thereafter participated in both the LAP and the State Bar Court's ADP. In November 2015, the court received a LAP report stating that Respondent was out of contact with LAP, had multiple unexcused absences from LAP group sessions, did not turn in signature cards for October 2015, and stopped calling into the daily call-in system. LAP subsequently received a doctor's notice that Respondent had been hospitalized with a life-threatening illness. Consequently, LAP determined Respondent was still in compliance with the terms of his participation plan.

Respondent met with the LAP Evaluation Committee on February 24, 2016. Due to Respondent's health issues, LAP modified the requirements of his participation plan. Among other things, the modifications included reducing Respondent's required meetings from three-times a week to one-time a week and permitting in-home testing with SoberLink testing rather than outside testing with FirstLab.

Thereafter, the court received LAP reports stating that Respondent missed or was late for multiple lab tests in March and early April 2016. According to the LAP report received April 27, 2016, Respondent met with the LAP Evaluation Committee on April 20, 2016. Respondent was given two weeks to fully comply with SoberLink testing. If there were additional problems, Respondent would be returning to FirstLab for testing.

Within the next two weeks, the court received LAP reports indicating Respondent continued to submit late tests and had an unexcused absence from a group meeting. As a result,

LAP issued a report, received by the court on May 10, 2016, indicating that Respondent's SoberLink testing had been suspended and his FirstLab testing would resume.

On July 6, 2016, the court received a LAP report indicating that, among other things, Respondent had four unexcused absences from his weekly LAP group sessions for the month of June.

On July 25, 2016, the court issued an order to show cause as to why Respondent should not be terminated from the ADP and have the high level of discipline imposed as a result of his failure to comply with the terms of his contract in the ADP, his failure to attend sessions of the LAP, his positive lab result, and his failure to comply with orders of this court regarding his participation in the ADP.

On August 4, 2016, Respondent, by and through his attorney, filed a response to the order to show cause. In his response, it was argued that Respondent was physically unable to comply with the LAP requirements.

On August 9, 2016, the court received a LAP report reflecting four additional unexcused absences from Respondent's weekly LAP group meetings, as well as a failed drug test and multiple missed tests. On August 24, 2016, the court received a LAP report stating that Respondent could no longer comply with the random lab testing requirements in his participation plan due to his physical limitations.

On August 29, 2016, a hearing was held on the order to show cause. After thorough consideration of the present facts and circumstances, as well as the accommodations provided by LAP, the court issued an order terminating Respondent from the ADP.

Findings of Fact and Conclusions of Law

The parties' stipulation, including the court's order approving the stipulation, is attached and hereby incorporated by reference, as if fully set forth herein.

In case No. 11-C-19357, Respondent stipulated that although the facts and circumstances surrounding his July 13, 2012 criminal conviction do not involve moral turpitude, they do involve other misconduct warranting discipline.

In case No. 12-C-10098, Respondent stipulated that although the facts and circumstances surrounding his May 13, 2003 criminal conviction do not involve moral turpitude, they do involve other misconduct warranting discipline.

In mitigation, Respondent had no prior record of discipline and demonstrated good character by engaging in pro bono civic and community service. No aggravating factors were involved.

Discussion

The purpose of State Bar disciplinary proceedings is not to punish the attorney but, rather, to protect the public, preserve public confidence in the legal profession, and maintain the highest possible professional standards for attorneys. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111.)

In determining the appropriate alternative discipline recommendations if Respondent successfully completed the ADP or was terminated from, or failed to successfully complete, the ADP, the court considered certain standards and case law. In particular, the court considered standards 1.1, 1.2, 1.3, 1.4, 1.6, 1.7, and 2.12(b),³ and *In re Kelley* (1990) 52 Cal.3d 487; and *In the Matter of Anderson* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 39.

Because Respondent has now been terminated from the ADP, this court, in turn, now recommends to the Supreme Court the imposition of the higher level of discipline, set forth more fully below.

³ The standards were revised on July 1, 2015. All references to the standards in this decision refer to the standards in effect prior to July 1, 2015.

Discipline Order

Accordingly, it is ordered that respondent **Mark Ginalski**, State Bar No. 133828, is hereby publicly reprovved. Pursuant to the provisions of rule 5.127(A) of the Rules of Procedure of the State Bar of California (Rules of Procedure), the public reprovval will be effective when this decision becomes final. Furthermore, pursuant to rule 9.19(a) of the California Rules of Court and rule 5.128 of the Rules of Procedure, the court finds that the interests of Respondent and the protection of the public will be served by the following specified conditions being attached to the public reprovval imposed in this matter. Failure to comply with any conditions attached to this public reprovval may constitute cause for a separate proceeding for willful breach of rule 1-110 of the Rules of Professional Conduct of the State Bar of California. Respondent is hereby ordered to comply with the following conditions attached to his public reprovval for a period of two years following the effective date of the public reprovval imposed in this matter:

1. During the reprovval period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct;
2. Within 10 days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California (Office of Probation), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code;
3. Within 30 days after 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 attached to his public reprovval. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in person or by telephone. During the reprovval period, Respondent must promptly meet with the probation deputy as directed and upon request;
4. Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10 and October 10 of the period of reprovval. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all reprovval conditions during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him 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 20 days before the last day of the reprobation period and no later than the last day of the reprobation period;

5. Subject to the assertion of applicable privileges, Respondent must answer fully, promptly and truthfully, any inquiries of the Office of Probation which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the reprobation conditions;
6. Within one year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the State Bar Ethics School, and passage of the test given at the end of that session;
7. 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; and
8. The period during which these conditions are in effect will commence upon the date this decision imposing the public reprobation becomes final.

Costs

The court orders that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

Direction Re Decision and Order Sealing Certain Documents

The court directs a court case administrator to file this Decision and Discipline Order; Order Sealing Certain Documents. Thereafter, pursuant to rule 5.388 of the Rules of Procedure, all other documents not previously filed in this matter are ordered sealed pursuant to rule 5.12 of the Rules of Procedure.

It is further ordered that protected and sealed material will only be disclosed to:

- (1) parties to the proceeding and counsel; (2) personnel of the Supreme Court, the State Bar Court and independent audiotape transcribers; and (3) personnel of the Office of Probation when

necessary for their duties. Protected material will be marked and maintained by all authorized individuals in a manner calculated to prevent improper disclosure. All persons to whom protected material is disclosed will be given a copy of this order sealing the documents by the person making the disclosure.

IT IS SO ORDERED.

Dated: September 26, 2016



LUCY ARMENDARIZ
Judge of the State Bar Court



ORIGINAL

(Do not write above this line.)

State Bar Court of California Hearing Department San Francisco ALTERNATIVE DISCIPLINE PROGRAM		
<p>Counsel For The State Bar</p> <p>Heather E. Abelson Deputy Trial Counsel 180 Howard Street San Francisco, CA 94105-1639 (415) 538-2357</p> <p>Bar # 243691</p>	<p>Case Number (s) 11-C-19357-LMA; 12-C-10098</p>	<p>(for Court's use)</p> <p style="text-align: center;">PUBLIC MATTER</p> <p style="text-align: center;">FILED <i>R</i></p> <p style="text-align: center;">AUG 25 2014</p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>Counsel For Respondent</p> <p>Samuel C. Bellicini Fishkin & Statter LLP 1575 Treat Blvd., Suite 215 Walnut Creek, CA 94598 (925) 944-5600</p> <p>Bar # 152191</p>	<p>Submitted to: Program Judge</p> <p>STIPULATION RE FACTS AND CONCLUSIONS OF LAW</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter Of: MARK GINALSKI</p> <p>Bar # 133828</p> <p>A Member of the State Bar of California (Respondent)</p>		

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted June 16, 1988.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, except as otherwise provided in rule 804.5(c) of the Rules of Procedure, if Respondent is not accepted into the Alternative Discipline Program, this stipulation will be rejected and will not be binding on the Respondent or the State Bar.
- (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, except for Probation Revocation proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 8 pages, excluding the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."

(Do not write above this line.)

- (6) 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.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7 and will pay timely any disciplinary costs imposed in this proceeding.

B. Aggravating Circumstances [see Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(f) & 1.5]. Facts supporting aggravating circumstances are required.

- (1) **Prior record of discipline**
- (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 intentional, 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) **Restitution:** Respondent failed to make restitution.
- (9) **No aggravating circumstances are involved.**

Additional aggravating circumstances:

(Do not write above this line.)

C. Mitigating Circumstances [see standards 1.2(g) & 1.6]. 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, the public, or the administration of justice.
- (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 with a good faith belief that was honestly held and reasonable.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical or mental 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 the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.
- (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 extraordinarily 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:

**No Prior Discipline at page 6.
Pro Bono Work at pages 6-7.**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: MARK GINALSKI
CASE NUMBERS: 11-C-19357; 12-C-10098

FACTS AND CONCLUSIONS OF LAW.

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

Case No. 11-C-19357 (Conviction Proceedings)

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 December 7, 2011, the Marin County District Attorney filed a criminal complaint in the Marin County Superior Court, case no. CR178438A, charging Respondent with one count of violation of Vehicle Code section 23152(a) [Driving Under the Influence], a misdemeanor, and one count of violation of Vehicle Code section 23152(b) [Driving While Having a .08% or Higher Blood Alcohol], a misdemeanor. The complaint further alleged that Respondent had a prior May 13, 2003 conviction for violating Vehicle Code section 23152(a) [Driving Under the Influence], in Marin County Superior Court, case no. CR124574.

3. On July 13, 2012, the court entered Respondent's plea of guilty to the count of violation of Vehicle Code section 23152(a) [Driving Under the Influence], a misdemeanor, and the count of violation of Vehicle Code section 23152(b) [Driving While Having a .08% or Higher Blood Alcohol], a misdemeanor, and based thereon, the court found Respondent guilty of these counts. Respondent also pled guilty to having a prior conviction for violation of Vehicle Code section 23152(a) [Driving Under the Influence].

4. On July 13, 2012, the court suspended the imposition of sentence and placed Respondent on formal probation for a period of three years. The court ordered that Respondent, among other things, attend and complete the Post-Conviction Drinking Driver Program, attend and complete Centerpoint or an alternative intensive outpatient treatment program, complete 20 days in the Adult Offender Work Program ("AOWP"), pay fines and fees totaling \$2539, and serve 20 days in custody with no credit given for time served.

5. On December 26, 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:

6. On November 30, 2011, at approximately 11:37p.m., Tiburon police pulled Respondent over in Tiburon, CA after police saw Respondent driving on the shoulder of the road and unable to maintain his lane. The police officer further observed Respondent have difficulty parking his vehicle when he pulled into a public parking lot.

7. The officer noted that Respondent had red and watery eyes, slurred speech, unsteady gait, and a strong odor of alcohol emitting from his breath.

8. Respondent repeatedly misrepresented to the officer that he had drank only "two beers."

9. The officer performed field sobriety tests. Respondent failed to perform as explained and/or demonstrated the field sobriety tests including the nystagmus, standing rhomberg, finger to nose, heel to toe, leg raise, and written alphabet tests.

10. The officer performed a preliminary alcohol screening breath test to measure the alcohol content of Respondent's breath. The test results showed Respondent's blood alcohol content was .139 and .136.

11. Respondent was then arrested and transported to the Tiburon Police Department where the officer used an evidential portable alcohol system to conduct a post-arrest breath test to test Respondent's blood alcohol content. The test results showed Respondent's blood alcohol content was .14 and .15. Respondent was released to a sober adult per the "Tiburon Community Release Program."

CONCLUSIONS OF LAW:

12. The facts and circumstances surrounding the above-described violation(s) did not involve moral turpitude but did involve other misconduct warranting discipline.

Case No. 12-C-10098 (Conviction Proceedings)

PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING:

13. 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.

14. On May 24, 2002, the Marin County District Attorney filed a criminal complaint in the Marin County Superior Court, case no. CR124574A, charging Respondent with one count of violation of Vehicle Code section 23152(a) [Driving Under the Influence]. The complaint further alleged an enhancement for Respondent willfully refusing a peace officer's request to submit to, and willfully failed to complete, the chemical tests pursuant to Vehicle Code section 23612.

15. On May 13, 2003, the court entered Respondent's plea of guilty to the count of violation of Vehicle Code section 23152(a) [Driving Under the Influence], a misdemeanor. The enhancement allegation was ordered stricken. Respondent also pled guilty to having a blood alcohol content of .16.

16. On May 13, 2003, the court suspended the imposition of sentence and placed Respondent on formal probation for a period of three years. The court ordered that Respondent, among other things,

complete first-offender drinking drive program within 180 days, pay fines and fees in the amount of \$1,095.00, and that Respondent's driver's license be restricted for a period of 90 days.

17. On November 8, 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:

18. On May 4, 2002, Respondent was pulled over driving northbound on U.S. 101 by California Highway Patrol after CHP officers observed Respondent's car drifting and swerving between lanes, and driving on the shoulder. The responding CHP officer detected a distinct odor of alcohol emitting from the vehicle, and observed that Respondent's eyes were red and watery, and that his speech was slow and slurred. When asked if he had been drinking, Respondent responded "yes." The CHP officer asked Respondent to exit the vehicle, walk around the front, and meet him at the right front of the vehicle. Respondent exited the vehicle, walked to the rear of his vehicle, dragged his right foot and stumbled two steps forward. Respondent then looked at the CHP officer and admitted "I had too much to drink." The CHP officer then detected the distinct odor of alcohol emitting from Respondent's breath. While Respondent was speaking to the CHP officer, he swayed and repeatedly lost his balance.

19. The officer conducted field sobriety tests. Respondent failed to perform as explained and/or demonstrated a series of field sobriety tests, including the nystagmus, MPOA, and standing one leg raise, and written alphabet tests.

20. Respondent was arrested for violation of Vehicle Code section 23152(a), and transported to the Marin County Jail in San Rafael. Respondent was given two breath tests. On the first test, Respondent's blood alcohol content was .16. During the second test, Respondent failed to blow into the breath machine as repeatedly instructed to do on four occasions, putting his chin to his chest while the breath machine mouthpiece was in his mouth. Respondent refused to blow hard enough to measure a sufficient breath sample. Respondent then sat back in his chair and stated that he did not want to provide a second breath sample, and another officer read verbatim the chemical test refusal (Vehicle Code section 13353) from the back of the DS 367 form.

CONCLUSIONS OF LAW:

21. The facts and circumstances surrounding the above-described violation(s) did not involve moral turpitude but did involve other misconduct warranting discipline.

MITIGATING CIRCUMSTANCES.

No Prior Discipline (Std. 1.6(a)): Although Respondent's misconduct is serious, he is entitled to mitigation for having practiced law for approximately 14 years without discipline. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49.)

Pro Bono Work – Respondent has demonstrated good character by engaging in pro bono civic and community service including serving as a Commissioner for the Marin County Planning and Personnel Commissions, serving on the City of Tiburon's Town Council, Planning Commission and Review

Board, serving as a board member of the Marin Valentine's Ball Foundation, and serving as a judge pro tem for the Counties of Sonoma and El Dorado. (*In the Matter of Respondent K* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 335, 359; *Porter v. State Bar* (1990) 52 Cal.3d 518, 529 [mitigative credit for community service].)

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of March 26, 2014 the prosecution costs in this matter are \$4,784.00. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

(Do not write above this line.)

In the Matter of: MARK GINALSKI	Case number(s): 11-C-19357-LMA; 12-C-10098
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SIGNATURE OF THE PARTIES

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

<u>April 2, 2014</u> Date	 Respondent's Signature	<u>Mark Ginalski</u> Print Name
<u>4 April 2014</u> Date	 Respondent's Counsel Signature	<u>Samuel C. Bellicini</u> Print Name
<u>4/7/2014</u> Date	 Deputy Trial Counsel's Signature	<u>Heather E. Abelson</u> Print Name

(Do not write above this line.)

In the Matter of: MARK GINALSKI	Case Number(s): 11-C-19357-LMA; 12-C-10098
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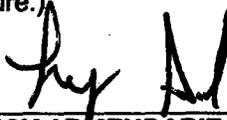
ALTERNATIVE DISCIPLINE PROGRAM ORDER

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 stipulation as to facts and conclusions of law is APPROVED.
- The stipulation as to facts and conclusions of law is APPROVED AS MODIFIED as set forth below.
- 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; or 3) Respondent is not accepted for participation in the Program or does not sign the Program Contract. (See rule 5.58(E) & (F) and 5.382(D), Rules of Procedure.)

Date Aug 25, 2014


LUCY ARMENDARIZ
Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on August 25, 2014, I deposited a true copy of the following document(s):

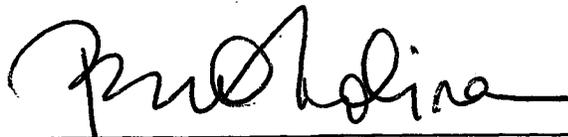
STIPULATION RE FACTS AND CONCLUSIONS OF LAW

By personally delivering a copy of said document(s) to:

SAMUEL C. BELLICINI
180 HOWARD STREET, 6TH FLOOR
SAN FRANCISCO, CA 94105

HEATHER ABELSON
180 HOWARD STREET, 6TH FLOOR
SAN FRANCISCO, CA 94105

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on August 25, 2014.



Bernadette C.O. Molina
Case Administrator
State Bar Court

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on September 26, 2016, I deposited a true copy of the following document(s):

DECISION AND DISCIPLINE ORDER; ORDER SEALING CERTAIN DOCUMENTS

STIPULATION RE FACTS AND CONCLUSIONS OF LAW

in a sealed envelope for collection and mailing on that date as follows:

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

SAMUEL C. BELLICINI
SAMUEL C. BELLICINI, LAWYER
1005 NORTHGATE DR # 240
SAN RAFAEL, CA 94903

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

SUSAN I. KAGAN, Enforcement, San Francisco
TERRIE GOLDADE, Probation, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on September 26, 2016.



Mazie Yip
Case Administrator
State Bar Court