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State Bar Court of California Hearing Department San Francisco PROBATION VIOLATION		
Counsel For The State Bar Christine Souhrada Deputy Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2183 Bar # 104927	Case Number(s): 11-O-01544	For Court use only <p style="text-align: center; font-size: 1.2em;">PUBLIC MATTER</p> <p style="text-align: center; font-size: 1.5em;">FILED</p> <p style="text-align: center;">OCT 25 2011 <i>sf</i></p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
In Pro Per Respondent Richard J. Chiozza 189 East H. Street Benecia, CA 94510 Bar # 142575	Submitted to: STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING PROBATION VIOLATION—"PM" PROCEEDING <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: Richard J. Chiozza Bar # 142575 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 8 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)



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- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- Costs are added to membership fee for calendar year following effective date of discipline (no actual suspension).
 - 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 (actual suspension).
 - 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 09-O-14840
 - (b) Date prior discipline effective September 8, 2010
 - (c) Rules of Professional Conduct/ State Bar Act violations: RPC 3-110(a), BPC 6103, 6068(m), 6068(i)
 - (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.

(Effective January 1, 2011)

Probation Violation

(Do not write above this line.)

- (7) **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

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

- (1) **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) **Good Faith:** Respondent acted in good faith.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) **No mitigating circumstances** are involved.

Additional mitigating circumstances:

(Do not write above this line.)

D. Discipline (choose only one):

- (1) **Probation extended:** Respondent's probation in State Bar Case number 09-O-14849 (Supreme Court Case number S183842) is extended for one year.
- (2) **Probation revoked; Probation Reinstated; Actual Suspension:** Respondent's probation is revoked and reinstated for _____ on the same terms and conditions as previously imposed in _____. The terms of probation remain the same as in the prior order except as indicated below. In addition, Respondent must be actually suspended from the practice of law for _____.
- (3) **Probation revoked; Probation Reinstated; No Actual Suspension:** Respondent's probation is revoked and reinstated for _____ on the same terms and conditions as previously imposed in _____. The terms of probation remain the same as in the prior order except as indicated below.
- (4) **Probation revoked; Probation not Reinstated; Actual Suspension:** Respondent's probation is revoked. Respondent must be suspended from the practice of law for _____.

E. In addition to conditions previously imposed by the Supreme Court in its prior order, the following new conditions are recommended by this stipulation:

- (1) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2) 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.
- (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 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 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.

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- (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 type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) Probation Conditions Deleted or Modified: :
- (2) **Rule 9.20, California Rules of Court:** Respondent must comply with the provisions of subdivisions (a) and (c) of rule 9.20, California Rules of Court, within 30 and 40 days, respectively, from the effective date of the Supreme Court order herein.
- (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 provisions of subdivisions (a) and (c) of rule 9.20, California Rules of Court, within 120 and 130 days, respectively, from the effective date of the Supreme Court order herein.
- (4) Other:

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Attachment language (if any):

FACTS AND CONCLUSIONS OF LAW

1. Respondent willfully violated Business and Professions Code, section 6068(k), by failing to comply with all conditions attached to any disciplinary probation, as follows:
2. On August 9, 2010, the California Supreme Court filed a disciplinary order in State Bar Court case number 09-O-14840 et alia (Supreme Court Case Number S183842).
3. The order became effective on September 8, 2011 (California Rules of Court, rule 9.18(a)), and at all times subsequent has remained in full force and effect.
4. Notice of the rule 9.20 order was properly served upon respondent (California Rule of Court 9.18(b)).
5. The August 9, 2010, disciplinary order mentioned above placed respondent on disciplinary probation for five years, beginning on the date the disciplinary order became effective, and required him to comply with the conditions of probation contained in the stipulation approved by Hearing Department of the State Bar Court in its Order filed on April 22, 2010.
6. At all times subsequent to January 9, 2011, respondent has remained on disciplinary probation and the probation conditions mentioned above have remained in full force and effect.
7. **QUARTERLY REPORTING CONDITION:**
 - (a) One of the conditions of probation provided as follows:

“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.”

(c) Respondent violated the quarterly reporting condition by failing to timely submit his quarterly reports for the fourth quarter of year 2010 and the first and second quarters of the year 2011. Prior to entering this stipulation, i.e., in or about late August 2011, respondent will file these quarterly reports. Respondent submitted his quarterly report for the second quarter of 2011 on July 14, 2011.

9. PAYMENT OF SANCTIONS.

- (a) One of the conditions of probation provided as follows:

“Within 90 days from the effective date of discipline in this matter, respondent must make restitution of all outstanding court sanctions (or obtain a certified court record of waiver or satisfaction of same) and furnish proof to the Office of Probation. Respondent shall include, in each quarterly report required herein, satisfactory evidence of all restitution payments made by him during that reporting period.”

(b) The stipulation upon which respondent’s discipline was based specified the outstanding court sanction awards that respondent was required to satisfy.

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(c) Respondent violated this condition because, to date, he has failed to timely provide any of the required proof to the Office of Probation. There were two cases in which sanctions were owed. In one case, respondent obtained a waiver of the sanctions, so the probation violation was limited to failing to provide adequate proof to the Office of Probation. Prior to entering this stipulation, i.e., in or about late August 2011, respondent will satisfy the sanction orders in the other case (totalling \$850).

10. By violating the quarterly reporting and payment-of-sanctions conditions, respondent failed to comply with all conditions attached to any disciplinary probation.

DISCLOSURE OF PENDING INVESTIGATIONS

The disclosure required under paragraph A.7 was made on October 5, 2011.

SUPPORTING AUTHORITY

“[T]here has been a wide range of discipline imposed for probation violations from merely extending probation ... to a revocation of the full amount of the stayed suspension and imposition of that amount as an actual suspension.” (In the Matter of Gorman (Review Dept. 1993) 4 Cal. State Bar Ct. Rptr. 567, 573.)

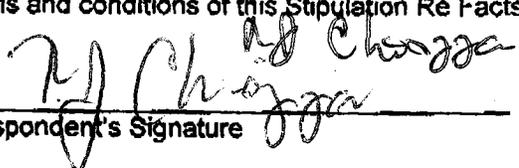
The parties have agreed to this extension of probation with the understanding that respondent will need to prove rehabilitation pursuant to Standard 1.4(c)(ii) before he is readmitted to active practice and that the probation violations will be considered in at that time.

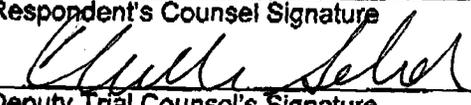
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In the Matter of: Richard J. Chiozza	Case number(s): 11-O-01544
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SIGNATURE OF THE PARTIES

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.

Oct. 4, 2011  Richard J. Chiozza
 Date Respondent's Signature Print Name

10/18/11  Christine Souhrada
 Date Deputy Trial Counsel's Signature Print Name

(Do not write above this line.)

In the Matter of: Richard J. Chiozza	Case Number(s): 11-O-01544
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PROBATION VIOLATION 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 Judge of the State Bar Court

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In the Matter of: Richard J. Chiozza	Case Number(s): 11-O-15144
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PROBATION VIOLATION ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- All Hearing dates are vacated.

1. On p. 1 – In the box that states “Case Number(s)” delete “11-O-01544” and in its place insert “11-O-15144.”
2. On p.1 – In box that states, “Submitted to: STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITIONS AND ORDER APPROVING,” after the words “PROBATION VIOLATION,” delete the dash and the words, “PM PROCEEDING.”
3. On p. 4 –In paragraph D.(1), delete “09-O-14849” and in its place insert “09-O-14840.”
4. On p. 6 – Under the heading, “FACTS AND CONCLUSIONS OF LAW,” delete from paragraph 3, the date “September 8, 2011” and in its place insert “September 8, 2010.”

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.)**

October 25, 2011
Date


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 October 25, 2011, I deposited a true copy of the following document(s):

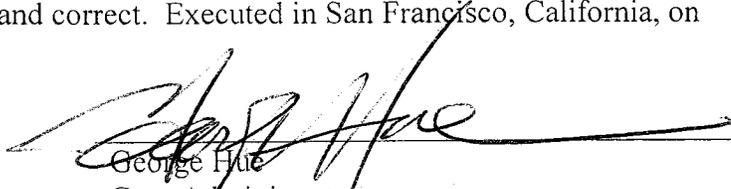
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

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

- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:
- RICHARD J. CHIOZZA
189 EAST "H" ST
BENICIA, CA 94510
- by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:
- by overnight mail at , California, addressed as follows:
- by fax transmission, at fax number . No error was reported by the fax machine that I used.
- By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:
- by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

Christine Souhrada, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on October 25, 2011.


George Hue
Case Administrator
State Bar Court