

**STATE BAR COURT OF CALIFORNIA**  
**HEARING DEPARTMENT – LOS ANGELES**

In the Matter of	)	Case No.: <b>12-C-15356-DFM</b>
	)	
<b>MARK VILAR SANTA-ROMANA III,</b>	)	<b>DECISION AND DISCIPLINE ORDER;</b>
	)	<b>ORDER SEALING CERTAIN</b>
<b>Member No. 163815,</b>	)	<b>DOCUMENTS</b>
	)	
<u>A Member of the State Bar.</u>	)	

**Introduction**

In this conviction referral proceeding, Respondent **Mark Vilar Santa-Romana III** (Respondent) was accepted for participation in the State Bar Court’s Alternative Discipline Program (ADP). As the court has now found that Respondent has successfully completed the ADP, the court orders that Respondent be privately reprovved and placed on reprovral conditions for one year.

**Significant Procedural History**

After the transmittal to the State Bar Court of the records<sup>1</sup> of the April 3, 2012 conviction of Respondent for violating Penal Code section 273.5, subdivision (a) [domestic violence], a misdemeanor, the Review Department of the State Bar Court issued an order on October 12, 2012, in case No. 12-C-15356, referring this matter to the Hearing Department of

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<sup>1</sup> The records included notice of the finality of Respondent’s conviction.

the State Bar Court for a hearing and decision recommending the discipline to be imposed if the Hearing Department found that the facts and circumstances surrounding Respondent's criminal conviction involved moral turpitude or other misconduct warranting discipline.

A Notice of Hearing on Conviction (NOH) was filed on October 26, 2012, and the matter was then assigned to the Honorable Richard A. Platel. Respondent filed an answer to the NOH on November 21, 2012.

On January 2, 2013, Respondent filed a written request to be admitted into the ADP.

On January 25, 2013, Judge Platel referred the matter to the undersigned judge for ADP evaluation.

Respondent executed a Participation Plan with the State Bar's Lawyers Assistance Program (LAP) on April 15, 2013.<sup>2</sup>

The court received on April 17, 2013, as Respondent's nexus statement, a letter from a mental health professional, dated March 4, 2013, which established a nexus between Respondent's mental health issue and his misconduct giving rise to the criminal conviction.

The parties entered into a Stipulation Re Facts and Conclusions of Law (Stipulation) in this matter on March 18, 2013. The Stipulation was received by this court on that same date.

On April 7, 2013, the parties submitted to the court their respective briefs regarding discipline in this matter.

At a status conference held on June 7, 2013, Respondent accepted the discipline the court would impose if Respondent successfully completed the ADP and the discipline which the court would impose if Respondent was terminated from, or failed to successfully complete, the ADP.

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<sup>2</sup> Respondent initially contacted the State Bar's Lawyer Assistance Program (LAP) on October 30, 2012, to assist him with his mental health issue and was accepted into LAP on March 26, 2013.

Pursuant to an order filed on June 7, 2013, this matter was reassigned to the undersigned judge for all further proceedings.

Respondent and his counsel executed the Contract and Waiver for Participation in the State Bar Court's ADP (Contract) on June 27, 2013.

On July 9, 2013, the court executed the Confidential Statement of Alternative Dispositions and Orders (Confidential Statement) which set forth the discipline which would be imposed if Respondent successfully completed the ADP, and the discipline which would be imposed if Respondent was terminated from, or failed to successfully complete, the ADP.<sup>3</sup> Also on that same date, (1) the Confidential Statement and Contract were lodged with the court; (2) the parties' Stipulation was filed;<sup>4</sup> and (3) the court filed an order accepting Respondent into the ADP with a June 27, 2013 start date.

After being admitted to the ADP, Respondent successfully complied with the requirements of the program and with the provisions of his LAP Participation Plan. In addition, on May 1, 2014, Respondent completed the State Bar Ethics School.

On December 26, 2014, the court received a recommendation from a mental health professional regarding Respondent that was satisfactory to the undersigned judge as required by rule 5.385 of the Rules of Procedure of the State Bar (Rules of Procedure) for successful completion of the ADP.

On January 12, 2015, more than 18 months after Respondent had been enrolled in the ADP and following a status conference, the court filed an order finding that Respondent has successfully completed the ADP. The matter was submitted for decision.

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<sup>3</sup> The court issued an order on July 29, 2014, amending the Confidential Statement to make clear that Respondent would receive credit for completing State Bar Ethics School during his participation in the ADP.

<sup>4</sup> The court signed an order approving the parties' Stipulation on July 2, 2013.

## **Findings of Fact and Conclusions of Law**

### **Culpability Findings**

The parties' Stipulation, including the court's order approving the stipulation, is attached hereto and hereby incorporated by reference, as if fully set forth herein. The Stipulation sets forth the factual findings, legal conclusion, and mitigating circumstances in this matter.

#### **Case No. 12-C-15356 – Domestic Violence**

Respondent and his wife got into an argument on April 1, 2012, concerning his wife becoming upset and yelling at his daughter who was seven years of age. Respondent grabbed his wife by the back of her neck and her shoulders during the argument. Respondent dragged his wife up the steps into the guesthouse. In the process of struggling to get away from Respondent, his wife hit her elbow and knee on the steps. Respondent's wife fought back. Respondent finally released his wife and walked back into the home. Respondent's wife suffered scrapes, abrasions, and a minor laceration to the right side of her neck.

Respondent was charged with violating Penal Code section 273.5, subdivision (a) [domestic violence], a misdemeanor. On April 3, 2012, Respondent pleaded no contest to the charge. The imposition of sentence was stayed, and Respondent was placed on three years' summary probation on conditions that included six days in jail, a domestic violence training program, and community service.

Respondent and the State Bar stipulated that the facts and circumstances surrounding Respondent's conviction did not involve moral turpitude but did involve other misconduct warranting discipline.

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## **Mitigation**

While Respondent's misconduct is serious, Respondent is entitled to some weight in mitigation for the fact that he had almost 20 years of legal practice without prior discipline prior to the misconduct in this matter. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49.)

As the court has received a recommendation regarding Respondent from a mental health professional that was satisfactory to the undersigned judge, Respondent is entitled to mitigating credit for having successfully completed the ADP, as his mental health issue no longer poses a risk that he will commit misconduct.

## **Aggravation**

There are no aggravating circumstances in this matter.

## **Discussion**

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

In determining the appropriate discipline to impose in this matter if Respondent successfully completed the ADP or was terminated from, or failed to successfully complete, the ADP, the court considered the discipline recommended by the parties, as well as certain former standards<sup>5</sup> and case law. In particular, the court considered former standards 1.1, 1.2, 1.3, 1.4, 1.5, 1.6, 2.10 and 3.4 and *In re Otto* (1989) 48 Cal.3d 970.

Because Respondent has now successfully completed the ADP, this court, in turn, now imposes the lower level of discipline, set forth more fully below.

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<sup>5</sup> The standards were revised effective January 1, 2014.

## **Discipline Order**

Accordingly, it is ordered that respondent **Mark Vilar Santa-Romana III**, State Bar Number 163815, is hereby privately reprovved. Pursuant to the provisions of rule 5.127 of the Rules of Procedure, the private 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 interest of Respondent and the protection of the public will be served by the following specified conditions being attached to the private reprovval imposed in this matter. Failure to comply with any condition(s) attached to this private 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 private reprovval for one year following the effective date of the private reprovval imposed in this matter:

1. During the reprovval period, Respondent must comply with the provisions of the State Bar Act and the Rules of Professional Conduct of the State Bar of California;
2. 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;
3. Within thirty (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 of reprovval. 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 reprovval, 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 conditions of reprovval 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 thirty (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 reproof and no later than the last day of the reproof period;

5. Subject to 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 reproof conditions;
6. 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;
7. Respondent must comply with all provisions and conditions of his Participation Plan/Agreement with the Lawyer Assistance Program (LAP) and must provide the Office of Probation with certification of completion of the LAP. Respondent must immediately report any non-compliance with any provision(s) or condition(s) of his Participation Plan/Agreement to the Office of Probation. Respondent 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 his compliance or non-compliance with LAP requirements. Revocation of the written waiver for release of LAP information is a violation of this condition. Respondent will be relieved of this condition upon providing to the Office of Probation satisfactory certification of completion of the LAP.<sup>6</sup>

#### **Direction Re Decision and Discipline Order; Order Sealing Certain Documents**

The court directs that a court case administrator file this Decision and Discipline Order; Order Sealing Certain Documents. Thereafter, pursuant to rule 5.388(c) 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.

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<sup>6</sup> The court will not require Respondent to again attend State Bar Ethics School, as he completed Ethics School during his period of participation in the ADP.

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 official 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: April \_\_\_\_\_, 2015

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DONALD F. MILES  
Judge of the State Bar Court