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State Bar Court of California Hearing Department San Francisco REPROVAL		PUBLIC MATTER
Counsel For The State Bar Catherine Taylor Deputy Trial Counsel 180 Howard Street San Francisco, CA 94105 415-538-2537 Bar # 210540	Case Number(s): 14-C-00469-PEM	For Court use only <div style="text-align: center;"> FILED <i>[Signature]</i> APR 15 2015 </div> <div style="text-align: center;"> STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO </div>
In Pro Per Respondent Donna Rena Heuman Heuman Law Office 750 18th Avenue Menlo Park, CA 94025 650-326-4500 Bar # 124020	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING PUBLIC REPROVAL <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: DONNA RENA HEUMAN Bar # 124020 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 **October 3, 1986**.
- (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 **10** 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, 2014)

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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 (public reproof).
 - Case ineligible for costs (private reproof).
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - Costs are entirely waived.
- (9) The parties understand that:
- (a) A private reproof imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
 - (b) A private reproof imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
 - (c) A public reproof imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

B. Aggravating Circumstances [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 or a separate attachment entitled "Prior Discipline."

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- (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:

Lack of remorse: See Attachment at page 7.

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

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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. **See Attachment at page 7.**

- (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 subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances:

No prior discipline: See Attachment at page 7.
Pre-trial stipulation: See Attachment at page 7.

D. Discipline:

- (1) **Private reproof (check applicable conditions, if any, below)**
- (a) Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).
- (b) Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).
- or
- (2) **Public reproof (Check applicable conditions, if any, below)**

E. Conditions Attached to Reproval:

- (1) Respondent must comply with the conditions attached to the reproval for a period of **one year**.
- (2) During the condition period attached to the reproval, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the condition period attached to the reproval. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of

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Professional Conduct, and all conditions of the reproof during the preceding calendar quarter. Respondent must also state in each report whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 (thirty) days, that report must be submitted on the next following quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the condition period and no later than the last day of the condition period.

- (6) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the monitor.
- (7) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the conditions attached to the reproof.
- (8) Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason:
- (9) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year of the effective date of the reproof.
- No MPRE recommended. Reason:
- (11) The following conditions are attached hereto and incorporated:
- | | |
|-----------------------------------------------------|-----------------------------------------------------------|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: DONNA RENA HEUMAN

CASE NUMBER: 14-C-00469

FACTS AND CONCLUSIONS OF LAW.

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

Case No. 14-C-00469 (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 13, 2013, the Santa Clara County District Attorney filed a misdemeanor complaint against respondent alleging one count of misdemeanor battery, a violation of Penal Code §242-243(a).

3. On March 18, 2014, respondent pled *nolo contendere* to Count 1 as amended by the district attorney, a violation of Penal Code §415(1) [fighting in public]. The court determined a factual basis existed for the plea and respondent was found guilty.

4. On March 18, 2014, the court suspended the imposition of sentence and placed respondent on court probation for two years. Among other things, respondent was ordered to attend 10 AA meetings and stay away from the Fairmont Hotel at 170 S. Market Street, San Jose, CA.

5. On December 18, 2014, 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 for which Respondent was convicted involved moral turpitude or other misconduct warranting discipline.

FACTS:

6. On November 8, 2013, respondent went to the bar at the Fairmont Hotel in San Jose, CA.

7. At approximately 1830 hours, a hotel security guard was called to the hotel bar regarding respondent, who was intoxicated and being aggressive with other customers by touching them, which made them feel awkward. The security guard asked respondent whether she was a guest of the hotel and had a room she could go to. Respondent was not staying at the hotel.

8. The security guard asked respondent to leave the bar, but respondent refused.

9. The security guard then escorted respondent to the security office. As they went, respondent slapped the security guard on the left side of his face with her right hand. Respondent shouted for help from passersby, claiming she was being kidnapped. Respondent threatened to sue the hotel because she was a lawyer.

10. San Jose Police officers were called and took custody of respondent. Respondent admitted consuming five drinks containing alcohol, but did not answer when asked what kind of drinks. Respondent displayed objective symptoms of intoxication, including slurred speech, staggered gait, and red, bloodshot, watery eyes. Respondent was arrested for violating Penal Code §647(f) [disorderly conduct-public intoxication] and Penal Code §242-243(a) [misdemeanor battery].

11. While being transported through the lobby to the patrol car, respondent began screaming for help. When asked why she was screaming and making a scene, she responded, "because you guys are assholes."

CONCLUSIONS OF LAW:

12. 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.

Lack of remorse/failure to appreciate seriousness: Respondent continues to minimize her conduct and attempts to re-litigate her conviction by claiming a version of events that puts her in a better light than that related in the police reports. (*In the Matter of Stewart* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 52 [where respondent falsely described incident leading to respondent's battery conviction, such conduct did not so much involve lack of candor as it manifested respondent's obsession with his view of facts and lack of insight into seriousness of his actions, itself an important factor bearing on need for measurable discipline].)

ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.

No Prior Discipline (Std. 1.6(a)): Respondent has been licensed since 1986 with no prior discipline. (*In the Matter of Loftus* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 80).

Emotional/Physical Difficulties (Std. 1.6(d)): Respondent reports at the time of her arrest, she was reeling from the recent loss of two of her closest, life-long friends which led to her drinking too much the night of her arrest. Respondent sought counseling after her arrest for help in dealing with her grief and has provided a letter from her therapist attesting to the dates of treatment. There appears to be a nexus between her grief, her alcohol use and the conduct which led to her conviction. Given the unfortunate confluence of the loss of close friends in a rather short period of time, and respondent's subsequent counseling in dealing with her grief, her misconduct is unlikely to occur again. (*In the Matter of Frazier* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676 [extreme emotional difficulties or stressful family circumstances can be considered mitigating evidence where it is established by expert testimony that the emotional difficulties were responsible for the attorney's misconduct, and the attorney has demonstrated full recovery and rehabilitation by clear and convincing evidence, such that recurrence of further misconduct is unlikely]).

Pretrial Stipulation: Respondent admitted her misconduct and entered into this stipulation to avoid a trial, thereby saving the State Bar time and resources. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability].)

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct “set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances.” (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.1. All further references to Standards are to this source.) The Standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

Although not binding, the standards are entitled to “great weight” and should be followed “whenever possible” in determining level of discipline. (*In re Silvertown* (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.) If a recommendation is at the high end or low end of a Standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) “Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure.” (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

In determining whether to impose a sanction greater or less than that specified in a given standard, in addition to the factors set forth in the specific standard, consideration is to be given to the primary purposes of discipline; the balancing of all aggravating and mitigating circumstances; the type of misconduct at issue; whether the client, public, legal system or profession was harmed; and the member’s willingness and ability to conform to ethical responsibilities in the future. (Stds. 1.7(b) and (c).)

Respondent’s conviction is for fighting in public. However, the facts and circumstances reveal she was arrested for and originally charged with battery.

Where respondent’s convictions do not involve moral turpitude per se, the circumstances surrounding respondent’s convictions are reviewed to determine whether they in fact involved moral turpitude or other misconduct warranting discipline. In reviewing the circumstances surrounding respondent’s conviction, the fact finder is not restricted to examining the elements of the crime, but rather may look to the whole course of respondent’s conduct which reflects upon his fitness to practice law because it is the misconduct underlying respondent’s conviction, as opposed to the conviction itself, that warrants discipline. *In the Matter of Oheb* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920.

Here, respondent slapped a hotel security guard while intoxicated and after being asked to leave the hotel bar. There is no question respondent disturbed the peace—both the conviction and the facts and circumstances underlying the conviction reveal that. But respondent also committed a battery, even though she was not convicted of it. Respondent’s misconduct warrants discipline.

In aggravation, respondent continues to minimize her conduct. Respondent created a drunken disturbance in a hotel bar, and then, after being escorted out, threatened to sue the hotel because she is an attorney. Respondent continued to make a scene by calling for help and saying she was being kidnapped. Slapping someone's face is not excused by being drunk or because one's close friends have died.

In mitigation, respondent has over 28 years in practice without discipline. Around the time of her misconduct, respondent was grieving the devastating losses of her two closest friends within a relatively short period of time, whom she considered her family. Although respondent's misconduct is serious, the circumstances which led to her conviction are not likely to be repeated.

On balance, considering the aggravating and mitigating factors present here, discipline at the lower end of the standard is appropriate-- a public reproof and one year probation, which would maintain high professional standards and preserve public confidence in the profession.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of March 26, 2015, the prosecution costs in this matter are \$2,447. 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

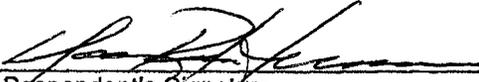
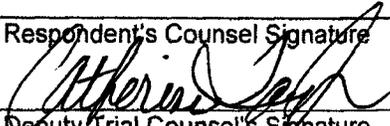
Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School and/or any other educational course(s) to be ordered as a condition of reproof or suspension]. (Rules Proc. of State Bar, rule 3201.)

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In the Matter of: DONNA RENA HEUMAN	Case number(s): 14-C-00469
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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>4/1/15</u> Date	 Respondent's Signature	<u>DONNA RENA HEUMAN</u> Print Name
<u>4-2-15</u> Date	 Respondent's Counsel Signature Deputy Trial Counsel's Signature	<u>CATHERINE TAYLOR</u> Print Name

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In the Matter of: DONNA RENA HEUMAN	Case Number(s): 14-C-00469
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REPROVAL ORDER

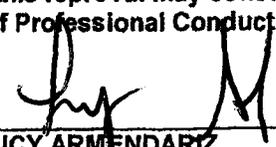
Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproof, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

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

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) Otherwise the stipulation shall be effective 15 days after service of this order.

Failure to comply with any conditions attached to this reproof may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.

April 13, 2015
Date


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 April 15, 2015, 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:

DONNA R. HEUMAN
HEUMAN LAW OFFICE
750 18TH AVE
MENLO PARK, CA 94025

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

Catherine E. Taylor, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on April 15, 2015.


Laurretta Cramer
Case Administrator
State Bar Court