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State Bar Court of California Hearing Department Los Angeles STAYED SUSPENSION		
Counsel For The State Bar Nina Sarraf-Yazdi Deputy Trial Counsel 845 South Figueroa Los Angeles, California 90017 (213) 765-1277 Bar # 278877	Case Number(s): 14-C-03393 - YDR	For Court use only FILED OCT 22 2015  STATE BAR COURT CLERK'S OFFICE LOS ANGELES
Counsel For Respondent Susan L. Margolis 2000 Riverside Drive Los Angeles, California 90039 (323) 953-8996 Bar # 104629	PUBLIC MATTER	
In the Matter of: Gilbert Alvandi Bar # 236752 A Member of the State Bar of California (Respondent)	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

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 1, 2005**.
- (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."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".

(Effective July 1, 2015)

Stayed Suspension



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- (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.
 - 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 [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(h) & 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."
- (2) **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by misrepresentation.
- (4) **Concealment:** Respondent's misconduct was surrounded by, or followed by concealment.
- (5) **Overreaching:** Respondent's misconduct was surrounded by, or followed by overreaching.
- (6) **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.
- (7) **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..
- (8) **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice.

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- (9) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (10) **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11) **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. See attachment, page 7.
- (12) **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) **Restitution:** Respondent failed to make restitution.
- (14) **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15) **No aggravating circumstances** are involved.

Additional aggravating circumstances

C. Mitigating Circumstances [see standards 1.2(i) & 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 likely to recur.
- (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 or to the State Bar during disciplinary investigations and proceedings.
- (4) **Remorse:** Respondent promptly took objective steps demonstrating spontaneous 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 objectively 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.

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- (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, page 7; and
Pretrial Stipulation - See attachment, page 8.**

D. Discipline:

- (1) **Stayed Suspension:**
- (a) Respondent must be suspended from the practice of law for a period of **one year**.
- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general law pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct.
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following:

The above-referenced suspension is stayed.

- (2) **Probation:**

Respondent is placed on probation for a period of **two years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court.)

E. Additional Conditions of Probation:

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

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- (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 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.

- (5) 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.
- (6) 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.
- (7) 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 State Bar Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: .
- (8) 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.
- (9) 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) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**
- No MPRE recommended. Reason: .
- (2) **Other Conditions:**

7. On May 24, 2014, respondent and Doe were in their apartment in bed when a verbal argument ensued between them. Respondent punched the headboard and raised his open hand towards Doe. Doe raised her left hand, palm out, in front of her, in a defensive manner. Doe got out of bed and walked to the bedroom window. Respondent approached Doe. Doe's back was to respondent. Doe turned around and raised her open right hand, palm out, in front of her in a defensive manner. Respondent walked towards Doe as she crouched down into a squat position on the ground. Respondent used his left hand to grab Doe by her hair and began dragging her across the bedroom floor. Respondent dragged Doe by the hair for several feet before he let go. Shortly thereafter, Doe moved out of the residence.

8. On June 6, 2014, Doe contacted respondent, told him she needed his emotional support, and asked if she could come to his place. Respondent agreed. Doe went to respondent's apartment and let herself in using her own key. Another argument ensued. Doe locked herself in the bathroom and texted her cousin, asking her cousin to call the police. Her cousin complied.

9. Three police officers from the Irvine Police Department arrived on the scene shortly before 6 p.m. and asked respondent to open his door so they could check on Doe's welfare. Respondent verbally berated them and refused to open his door. The officers told respondent that they needed to come in. Respondent told the officers that he was a lawyer and that the officers could either "F*** Off" or break the door in. The officers could hear Doe crying in the background and believed that exigent circumstance existed to enter the apartment. The officers went downstairs to obtain a key for the apartment from the front desk. When the officers tried to use the key to unlock the door, the door would relock, as if respondent was holding his hand over the knob that locks the door.

10. After a few minutes, the front door opened and Doe either ran or was pushed out. One of the officers entered the apartment while the front door was still partially open and found respondent in a fighting stance. With his fists clenched, respondent proceeded to argue with the officer stating "Are you kidding me? Get out of my house. Get the f*** out of my house." The officer ordered respondent to get on the ground. Respondent refused to comply with the officer's orders. A second officer entered the apartment and together the two officers handcuffed respondent and placed him under arrest.

CONCLUSIONS OF LAW:

11. The facts and circumstances surrounding the offense for which respondent was convicted did not involve moral turpitude but did involve other misconduct warranting discipline.

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Wrongdoing (Std. 1.5(b)): Respondent has two separate convictions: one for a violation of Penal Code section 242, battery, and one for violation of Penal Code section 148(a)(1), resisting arrest, as misdemeanors. Although the convictions were entered on the same day, these incidents occurred on separate dates and at separate times.

MITIGATING CIRCUMSTANCES.

No Prior Record of Discipline: Respondent was admitted to the State Bar of California on June 1, 2005 and has no prior record of discipline. Respondent's nine (9) years of discipline free practice is a mitigating factor. (*Hawes v. State Bar* (1990) 51 Cal.3d 587, 596 [more than 10 years of discipline-free practice entitled to "significant" mitigation]).

Pretrial Stipulation: Respondent is entitled to mitigation for entering into this stipulation and fully resolving this matter prior to trial, thereby preserving State Bar Court time and resources. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigating 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 Silverton* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the Standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) 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).)

Standard 2.16(b) indicates that suspension or reproof is appropriate for a final conviction of a misdemeanor not involving moral turpitude but involving other misconduct warranting discipline. A conviction for domestic violence does not involve moral turpitude *per se* and, even upon considering the facts and circumstances, has generally been held not to rise to the level of moral turpitude. (See, e.g., *In re Hickey* (1990) 50 Cal.3d 571 and *In re Otto* (1989) 48 Cal.3d 970.) However, it has been held to constitute “other misconduct warranting discipline.” (*Id.*) There are insufficient facts in the present matter to suggest moral turpitude. Therefore, Standard 2.16(b) is applicable in this matter and a suspension or reproof is appropriate.

To determine the appropriate level of discipline, consideration must also be given to the aggravating and mitigating circumstances. Respondent’s misconduct is serious because it demonstrates a disregard for the law and the public. Further, the facts and circumstances surrounding the misconduct involve multiple acts of wrongdoing, an aggravating factor. In mitigation, respondent has no prior record of discipline since being admitted in 2005 and he cooperated with the State Bar in entering into this pretrial stipulation fully resolving this matter without necessity of a trial, thereby saving State Bar resources.

Given the misconduct and the facts and circumstances surrounding the misconduct, discipline in the low-middle range suggested by Standard 2.16(b) is appropriate, and a stayed suspension is sufficient to achieve the purposes of discipline expressed in Standard 1.1, including protection of the public, maintenance of high professional standards, and preservation of public confidence in the legal profession.

Case law also supports a stayed suspension. In *In re Hickey* (1990) 50 Cal.3d 571, an attorney was convicted of violating Penal Code section 12025(b), carrying a concealed weapon. The facts and circumstances surrounding the conviction involved domestic violence. At a night club in Palm Springs, Hickey took out a loaded gun and hit his wife across the face with it. Frightened, his wife left the night club and spent the night at a neighbor's house. Hickey approached the neighbor's house and threatened his wife. Both the neighbor and his wife heard a gunshot fired outside the neighbor's door. Hickey had been arrested in a prior domestic violence incident with his wife in which he slapped his wife, proceeded to chase her as she ran away and beat her in front of bystanders. Hickey swung a punch at his wife, missed and then proceeded to push her. When a bystander got involved and told him to stop, Hickey verbally assaulted the bystander, ripped a metal sign up from the ground and swung it at the bystander's head. The bystander used his hands to protect his face and suffered a cut and bruises on his arms. During the same period and as part of the same disciplinary proceeding, Hickey was prosecuted and found culpable of failing to properly withdraw from a client matter. Despite, the severity of Hickey's conduct, the Court found that the attorney's conduct did not involve moral turpitude, but rather constituted other misconduct warranting disciplinary action. The Court noted that there had been harm to both his wife and a bystander and that the conduct was serious. The Court also acknowledged Hickey's alcohol problems and that the criminal conduct did not relate to the practice of law. Based on the above, the Court ordered that Hickey be suspended from the practice of law for a period of three years; that execution of his suspension be stayed; and that he be placed on probation for three years with conditions, including actual suspension for the first thirty days of the probationary period.

Here, similar to *Hickey*, respondent committed an act of domestic violence by grabbing his girlfriend by the hair and dragging her across the floor for several feet. Additionally, approximately one week later, when the police arrived for a welfare check, respondent became belligerent and resisted arrest. Because respondent's misconduct is less egregious than that in *Hickey*, respondent's misconduct does not relate directly to the practice of law, and respondent has no prior discipline, a discipline slightly lower than that ordered in *Hickey* is appropriate.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of October 1, 2015, the prosecution costs in this matter are \$5,249.00. 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.

EXCLUSION FROM MCLE CREDIT

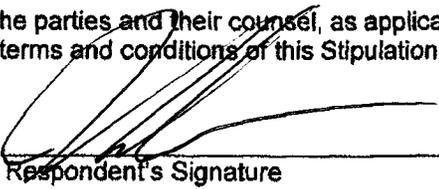
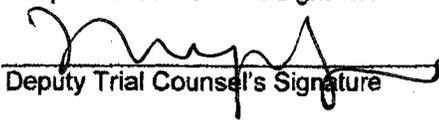
Pursuant to rule 3201, respondent may not receive MCLE credit for completion of State Bar Ethics School to be ordered as a condition of suspension. (Rules Proc. of State Bar, rule 3201.)

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In the Matter of: GILBERT ALVANDI	Case number(s): 14-C-03393
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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>10.12.15</u> Date	 Respondent's Signature	<u>Gilbert Alvandi</u> Print Name
<u>10/13/15</u> Date	 Respondent's Counsel Signature	<u>Susan Margolis</u> Print Name
<u>10/14/15</u> Date	 Deputy Trial Counsel's Signature	<u>Nina Sarraf-Yazdi</u> Print Name

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In the Matter of: GILBERT ALVANDI	Case Number(s): 14-C-03393
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STAYED SUSPENSION ORDER

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

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

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

October 21, 2015
Date


YVETTE D. ROLAND
Judge of the State Bar Court

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on October 22, 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:

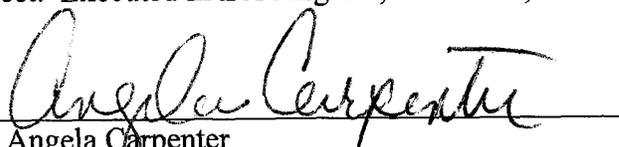
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

SUSAN LYNN MARGOLIS
MARGOLIS & MARGOLIS LLP
2000 RIVERSIDE DR
LOS ANGELES, CA 90039

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

Nina Sarraf-Yazdi, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 22, 2015.



Angela Carpenter
Case Administrator
State Bar Court