

DEC 18 2017

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

| | | |
|--|---|----------------------------|
| In the Matter of |) | Case No. 14-O-04951-LMA |
| |) | |
| MICHAEL JOSEPH BAYTOSH |) | |
| |) | DECISION AND ORDER SEALING |
| A Member of the State Bar, No. 176189. |) | CERTAIN DOCUMENTS |
| |) | |
| |) | |

Introduction¹

In this original disciplinary proceeding, respondent Michael Joseph Baytosh 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 will recommend to the Supreme Court that respondent be suspended from the practice of law in California for one year, that execution of that period of suspension be stayed, and that he be placed on probation for two years.

Significant Procedural History

The Office of Chief Trial Counsel of the State Bar of California (State Bar) filed a Notice of Disciplinary Charges (NDC) against respondent on September 10, 2015.

¹ Unless otherwise indicated, all references to rules refer to the State Bar Rules of Professional Conduct. Furthermore, all statutory references are to the Business and Professions Code, unless otherwise indicated.



Respondent requested referral for evaluation of his eligibility for participation in the State Bar Court's ADP. Respondent then contacted the State Bar's Lawyer Assistance Program (LAP) to assist him with his mental health issue.

On January 5, 2016, respondent submitted a declaration which established a nexus between respondent's mental health issue and his misconduct in this matter.

The State Bar and respondent entered into a Stipulation Re Facts and Conclusions of Law (Stipulation). The Stipulation, filed May 16, 2016, sets forth the factual findings, legal conclusion, and mitigating and aggravating circumstances in this matter.

The court issued a Confidential Statement of Alternative Dispositions and Orders, formally advising the parties of: (1) the discipline which would be recommended to the Supreme Court if respondent successfully completed the ADP; and (2) the discipline which would be recommended if respondent failed to successfully complete, or was terminated from, the ADP. Agreeing to those alternative possible dispositions, respondent executed the Contract and Waiver for Participation in the State Bar Court's ADP; the court accepted respondent for participation in the ADP; and respondent's period of participation in the ADP began on May 16, 2016.

Respondent thereafter participated successfully in both the LAP and the State Bar Court's ADP. After receiving a Certificate of One Year of Participation in the Lawyer Assistance Program - Mental Health, the court found that respondent has successfully completed the ADP at a status conference on November 20, 2017.

This matter was submitted for decision on November 20, 2017.

Findings of Fact and Conclusions of Law

Culpability Findings

The parties' Stipulation filed on May 16, 2016, including the court's order approving the Stipulation, is attached hereto and hereby incorporated by reference, as if fully set forth herein.

Respondent stipulated to willfully violating: (1) rule 3-110(A) by failing to perform services competently; (2) section 6103 by failing to obey court orders to provide discovery responses; and (3) section 6106 by making misrepresentations regarding the status of discovery responses.

Aggravation²

Multiple Acts (Std. 1.5(b).)

Respondent's multiple acts of misconduct constitute an aggravating circumstance.

Significant Harm to Client/Public/Administration of Justice (Std. 1.5(j).)

Respondent stipulated that he harmed his client and employer, the administration of justice, and public confidence in attorneys.

Mitigation

No Prior Record (Std. 1.6(a).)

Respondent's lack of a prior record of discipline in eight years of practice is a mitigating factor.

Good Character (Std. 1.6(f).)

Respondent presented evidence of good character.

Other

Respondent's successful completion of the ADP is considered as a mitigating circumstance in this matter.

Discussion

The purpose of State Bar disciplinary proceedings is not to punish the attorney but, rather, to protect the public, preserve public confidence in the legal profession, and maintain the

² All further references to standards (Std.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

highest possible professional standards for attorneys. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111.)

In determining the appropriate alternative discipline recommendations if respondent successfully completed the ADP or was terminated from, or failed to successfully complete, the ADP, the court considered the discipline recommended by the parties, as well as certain standards and case law, including standards 2.7(c), 2.11, and 2.12(a) and *Drociak v. State Bar* (1991) 52 Cal.3d 1085; *In the Matter of Nunez* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196; *In the Matter of Lais* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907; *In the Matter of Regan* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 844; and *In the Matter of Jeffers* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211.

Because respondent has now successfully completed the ADP, this court, in turn, now recommends to the Supreme Court the imposition of the lower level of discipline, set forth more fully below.

Recommendations

It is hereby recommended that respondent Michael Joseph Baytosh, State Bar Number 176189, be suspended from the practice of law in California for one year, that execution of that period of suspension be stayed, and that he be placed on probation³ for a period of two years subject to the following conditions:

1. During the probation 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 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 Business and Professions Code section 6002.1.

³ The probation period will commence on the effective date of the Supreme Court order imposing discipline in this matter. (See Cal. Rules of Court, rule 9.18.)

3. Within 30 days after the effective date of discipline, respondent must contact the Office of Probation and schedule a meeting with respondent's assigned probation deputy to discuss these terms and conditions 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.
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 in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

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

5. Subject to the assertion of applicable privileges, respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation which are directed to respondent personally or in writing relating to whether respondent is complying or has complied with the probation conditions.
6. Within one year after the effective date of the discipline herein, respondent must submit to the Office of Probation satisfactory evidence of completion of the State Bar's Ethics School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and respondent will not receive MCLE credit for attending Ethics School. (Rules Proc. of State Bar, rule 3201.)
7. Respondent must fully comply with respondent's Lawyer Assistance Program (LAP) Participation Agreement/Plan. Respondent must provide the LAP with a satisfactory written waiver authorizing the LAP to provide the Office of Probation and the State Bar Court with information regarding the terms and conditions of respondent's participation in the LAP and respondent's compliance or non-compliance with LAP requirements. Revocation of such waiver is a violation of this condition. Respondent will be relieved of this condition upon providing satisfactory certification of completion of the LAP to the Office of Probation.

At the expiration of the probation period, if respondent has complied with all conditions of probation, respondent will be relieved of the stayed suspension.

Multistate Professional Responsibility Examination

It is recommended that respondent be ordered to take and pass the Multistate Professional Responsibility Examination (MPRE) within one year after the effective date of the Supreme Court order imposing discipline in this matter and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period.

Costs

It is recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

Direction Re Decision and Order Sealing Certain Documents

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

It is further ordered that protected and sealed material will only be disclosed to: (1) parties to the proceeding and counsel; (2) personnel of the Supreme Court, the State Bar Court and independent audiotape transcribers; and (3) personnel of the Office of Probation when necessary for their 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: December 18, 2017



LUCY ARMENDARIZ
Judge of the State Bar Court

(Do not write above this line.)

**State Bar Court of California
Hearing Department
San Francisco
ALTERNATIVE DISCIPLINE PROGRAM**

| | | |
|---|---|---|
| Counsel For The State Bar Esther J. Rogers Senior Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2258 Bar # 148246 | Case Number (s) 14-O-04951-LMA | (for Court's use) PUBLIC MATTER FILED  MAY 16 2016 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO |
| Counsel For Respondent Samuel C. Bellicini Fishkin & Slatter, LLP 1575 Treat Blvd., Suite 215 Walnut Creek, CA 94598 (925) 944-5600 Bar # 152191 | Submitted to: Program Judge STIPULATION RE FACTS AND CONCLUSIONS OF LAW <input type="checkbox"/> PREVIOUS STIPULATION REJECTED | |
| In the Matter Of: MICHAEL JOSEPH BAYTOSH Bar # 176189 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 **June 1, 1995**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, except as otherwise provided in rule 804.5(c) of the Rules of Procedure, if Respondent is not accepted into the Alternative Discipline Program, this stipulation will be rejected and will not be binding on the Respondent or the State Bar.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated, except for Probation Revocation proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **10** pages, excluding the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."

(Do not write above this line.)

- (6) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7 and will pay timely any disciplinary costs imposed in this proceeding.

B. Aggravating Circumstances [see Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(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:
- (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 involved 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. See Attachment at page 7.
- (9) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (10) ☐ **Lack of Candor/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 at 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.
- (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. **See Attachment at Page 7.**
- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances** are involved.

(Do not write above this line.)

Additional mitigating circumstances:

See Attachment at Page 7-8.

**No Prior Record
Pretrial Stipulation**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: MICHAEL JOSEPH BAYTOSH

CASE NUMBER: 14-O-04951-LMA

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

Case No. 14-O-04951-LMA (State Bar Investigation)

FACTS:

1. At all relevant times, the law firm Prout LeVangie represented defendant Riverside Health Care Corporation in the matter *Czoberek, et al., v. Riverside Healthcare Corp., et al*, Sacramento County Superior Case No. 34-2012-00129811. Prior to April 13, 2013, Prout LeVangie assigned respondent the responsibility of representing Riverside Health Care Corporation in the litigation.
2. On April 17, 2013, plaintiffs served respondent with discovery. Although plaintiff's counsel, Wendy York, extended the response deadline, respondent failed to adequately respond to the discovery. On September 9, 2013, September 18, 2013, and October 4, 2013, York sent respondent meet and confer letters requesting that respondent properly respond to the outstanding discovery requests.
3. On November 3, 2011, York spoke with respondent. Respondent agreed to provide amended responses by November 22, 2013. Respondent failed to comply with the November 22, 2013 deadline.
4. On December 6, 2013, York called respondent and respondent agreed to produce documentation by December 20, 2013. Respondent failed to comply with the December 20, 2013 deadline. On March 3, 2014, York sent respondent another meet and confer letter. Respondent failed to respond to the letter and failed to produce any documentation.
5. On April 14, 2014, York filed a motion to compel further responses to plaintiffs' request for production of documents. Respondent failed to oppose the motion. On May 6, 2014, the court granted the motion to compel and issued eight separate orders requiring respondent to provide plaintiffs with verified further responses, without objections, and to produce all responsive documents, by May 16, 2014. The court also ordered defendant to pay sanctions totaling \$16,680 (or \$2,085 per order) due to respondent's failure to respond to discovery and produce documents. Although respondent received the orders, respondent failed to provide further verified responses or any documentation.
6. On June 10, 2014, York left respondent a message and sent respondent a letter inquiring about the overdue discovery. Respondent received the letter, but failed to respond to it. On June 11, 2014, respondent left York a voicemail indicating that respondent had already mailed to her the further responses and that he would hand-deliver additional copies to York if she did not receive the copies respondent mailed. In truth and in fact, respondent had not mailed anything to York and had not

completed the discovery responses or gathered the necessary documentation. Respondent knew the statements were false when he made them.

7. On June 12, 2014, York called respondent after the documents failed to arrive. Respondent informed York that he would arrange for the documents to be hand-delivered to her. In truth and in fact, respondent had not mailed anything to York and had not completed the discovery responses or gathered the necessary documentation. Respondent knew the statement was false when he made it.

8. On June 13, 2014, and June 14, 2014, York called respondent and spoke with respondent's assistant, who informed York that she would check with respondent and get back to York. No one responded to York. On June 18, 2014, York filed a motion for terminating sanctions. Respondent received the motion.

9. On June 25, 2014, respondent's assistant informed partner Michael LeVangie ("LeVangie") that respondent had failed to respond to plaintiffs' discovery. When LeVangie confronted respondent about the issue, respondent informed LeVangie that he had served the amended responses and respondent was awaiting the client's verifications. In truth and in fact, respondent had not served the amended responses and was not awaiting the client's verification. Respondent knew the statements were false when he made them.

10. On June 26, 2014, respondent informed LeVangie that respondent had failed to serve the amended responses and produce the required documents. Thereafter, LeVangie immediately assumed responsibility for the matter. On June 27, 2014, LeVangie delivered the required discovery to York.

11. On July 3, 2014, respondent submitted to the court a declaration in opposition to the plaintiffs' motion for sanctions in which respondent stated the following:

- "[A]t times I tried to avoid the issue and felt constrained to mislead my firm and plaintiffs' counsel as to the status of the responses;"
- "I misled Plaintiffs' counsel by indicating that responses were served following the Court's Order and that I would hand-deliver additional copies to them if they were somehow not delivered in the normal process of the mail. This statement was untrue;"
- "I advised the partners amended responses were served on Plaintiffs' counsel but we were simply awaiting verifications from the client. This statement was untrue."

12. On July 11, 2014, the court issued a tentative ruling imposing terminating sanctions due to respondent's wilful failure to comply with court orders. It also found that respondent "failed to act in good faith or with reasonable diligence, but instead has made repeated false representations as to the status of the discovery responses to plaintiffs' counsel, his employer, and by implication, to his clients."

13. On July 17, 2014, the court revised its tentative ruling and began its discussion by stating that, "The facts underlying this motion are deeply troubling to the Court." The court also "admonishe[d] [respondent] for his conduct. Such conduct is in violation of the oath of an attorney to faithfully discharge the duties of an attorney to the best of his knowledge and ability and involve moral turpitude, in that they are a breach of the fiduciary relation which binds him to the most conscientious fidelity to his clients' interests."

14. Ultimately, the court determined that a terminating sanction was inappropriate because it would be unfair to impute respondent's neglect to his client. The court also imposed additional sanctions

against respondent, and Prout LaVangie, jointly and severally, in the amount of \$7,110. Prout LeVangie paid both sets of sanctions, totaling approximately \$24,000. In August 2014, respondent was terminated from Prout LeVangie. Respondent did not reimburse Prout LeVangie for the sanctions it paid as a result of respondent's failure to comply with his discovery obligations.

CONCLUSIONS OF LAW:

15. By failing to prepare and serve discovery responses, failing to oppose the motion to compel further responses, permitting discovery sanctions to be issued against his client, and failing to provide the discovery responses after the court ordered respondent to provide them, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

16. By failing to comply with the court's eight May 6, 2014 orders requiring respondent to provide discovery responses by May 16, 2014, respondent disobeyed an order of the court requiring him to do an act in the course of his profession, which he ought in good faith do, in willful violation of Business and Profession Code section 6103.

17. By making misrepresentations regarding the status of the discovery responses to opposing counsel and his employer, respondent engaged in acts of moral turpitude, dishonesty and corruption, in willful violation of Business and Profession Code section 6106.

AGGRAVATING CIRCUMSTANCES.

Harm (Std. 1.5(f)): Respondent's repeated failures to respond to discovery, concealment of his failures to respond to discovery from his employer and client, and his failure to comply with court orders, harmed his client and his employer. Respondent's failures to respond to discovery required the opposing party and the court to expend time and resources to enforce respondent's discovery obligations, and thereby harmed the administration of justice and public confidence in attorneys.

Multiple Acts (Std. 1.5(b)): Respondent's failure to perform, violation of court orders and misrepresentations comprise multiple acts.

MITIGATING CIRCUMSTANCES.

No Prior Discipline: At the time of the misconduct, respondent had practiced law for eight years without a prior record of discipline. Although respondent's misconduct is serious, his eight-year discipline-free practice is a mitigating circumstance. (See *In the Matter of Riordan* (Review Dept. 2007 5 Cal. State Bar Ct. Rptr. 41 [where mitigative credit given for discipline-free practice despite serious conduct].)

Good Character (Std. 1.6(f)): Respondent has offered evidence of good character through (list the witnesses and their significance. These witnesses understand the facts of respondent's misconduct, yet they continue to maintain their high regard for respondent's character and competence.

Pretrial Stipulation: Respondent is entitled to mitigation credit for entering into a full stipulation with the Office of Chief Trial Counsel, thereby saving the State Bar Court 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].)

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed Respondent that as of November 5, 2015, the prosecution costs in this matter are approximately \$4,000. 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.. (Rules Proc. of State Bar, rule 3201.)

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| In the Matter of: MICHAEL JOSEPH BAYTOSH | Case number(s): 14-O-04951-LMA |
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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 and Conclusions of Law.

Respondent enters into this stipulation as a condition of his/her participation in the Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Program Contract.

If the Respondent is not accepted into the Program or does not sign the Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

If the Respondent is accepted into the Program, this Stipulation will be filed and will become public. Upon Respondent's successful completion of or termination from the Program, the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Confidential Statement of Alternative Dispositions and Orders shall be imposed or recommended to the Supreme Court.

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| <u>12-15-2015</u> Date | <u>Michael J Baytosh</u> Respondent's Signature | <u>MICHAEL JOSEPH BAYTOSH</u> Print Name |
| <u>10 Dec. 2015</u> Date | <u>[Signature]</u> Respondent's Counsel Signature | <u>SAMUEL C. BELLICINI</u> Print Name |
| <u>1/4/16</u> Date | <u>Esther Rogers</u> Deputy Trial Counsel's Signature | <u>ESTHER J. ROGERS</u> Print Name |

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| In the Matter of: MICHAEL JOSEPH BAYTOSH | Case Number(s): 14-O-04951-LMA |
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ALTERNATIVE DISCIPLINE PROGRAM ORDER

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

- ☒ The stipulation as to facts and conclusions of law is APPROVED.
- ☐ The stipulation as to facts and conclusions of law is APPROVED AS MODIFIED as set forth below.
- ☒ All court dates in the Hearing Department are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation; or 3) Respondent is not accepted for participation in the Program or does not sign the Program Contract. (See rule 5.58(E) & (F) and 5.382(D), Rules of Procedure.)

Date

May 11, 2016


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 May 16, 2016, I deposited a true copy of the following document(s):

STIPULATION RE FACTS AND CONCLUSIONS OF LAW



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

ROBERT HENDERSON

~~ESTHER J. ROGERS~~

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

SAMUEL C. BELLICINI

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

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on May 16, 2016.



Bernadette Molina
Case Administrator
State Bar Court

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on December 18, 2017, I deposited a true copy of the following document(s):

DECISION AND ORDER SEALING CERTAIN DOCUMENTS

STIPULATION RE FACTS AND CONCLUSIONS OF LAW

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

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

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

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

ESTHER ROGERS, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on December 18, 2017.



Bernadette Molina
Case Administrator
State Bar Court