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State Bar Court of California Hearing Department Los Angeles STAYED SUSPENSION		
Counsel For The State Bar David Aigboboh Deputy Trial Counsel 845 S. Figueroa Street Los Angeles, CA 90017 (213) 765-1097 Bar # 312712	Case Number(s): 17-H-06213	For Court use only PUBLIC MATTER FILED  MAR - 2 2018 STATE BAR COURT CLERK'S OFFICE LOS ANGELES
In Pro Per Respondent Khashayar Eshraghi 7165 Fountain Avenue Los Angeles, CA 90046 (213) 909-0983 Bar # 229557	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL SUSPENSION <input checked="" type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: KHASHAYAR ESHRAGHI Bar # 229557 A Member of the State Bar of California (Respondent)		

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **December 22, 2003**.
- (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 **9** 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".



(Do not write above this line.)

- (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: **three billing cycles following the effective date of discipline.** (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 **15-O-15226 (See Page 6.)**
 - (b) Date prior discipline effective **October 5, 2016**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **Rules of Professional Conduct, rules 3-110(A), 3-700(A)(1), and 3-700(A)(2)**
 - (d) Degree of prior discipline **Private reproof**
 - (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..

(Do not write above this line.)

- (8) **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice.
- (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.
- (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.

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- (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

Extreme Financial Difficulties, See Page 6.

Pretrial Stipulation, See Page 7.

Respondent Completed State Bar Ethics School, See Page 7.

D. Discipline:

- (1) **Stayed Suspension:**
- (a) Respondent must be suspended from the practice of law for a period of **one (1) 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 **one (1) year**, 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.
- (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: **Respondent successfully completed State Bar Ethics School on December 5, 2017.**
- (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: **Respondent passed the MPRE on August 12, 2017.**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: KHASHAYAR ESHRAGHI

CASE NUMBER: 17-H-06213

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. 17-H-06213 (State Bar Investigation)

FACTS:

1. On September 12, 2016, the State Bar Court ordered that respondent be privately reprovred in case number 15-O-15226.
2. Respondent's private reprovral imposed conditions during the reprovral period.
3. Among other conditions, respondent was required to attend State Bar Ethics School and pass the test given at the end of the session within one year of the effective date of discipline, on or before October 5, 2017.
4. Respondent did not attend State Bar Ethics School on or before October 5, 2017.

CONCLUSIONS OF LAW:

5. By failing to attend State Bar Ethics School on or before October 5, 2017, respondent willfully violated the Rules of Professional Conduct, rule 1-110.

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.5(a)): On September 12, 2016, respondent was privately reprovred in case number 15-O-15226 for violating the Rules of Professional Conduct, rules 3-110(A), 3-700(A)(1), and 3-700(A)(2). Respondent's discipline included a one-year reprovral period with conditions. Respondent's misconduct involved effectively withdrawing from employment without obtaining permission to withdraw, and failing to appear on behalf of his client, resulting in the entry of a money judgment. Respondent subsequently took steps to assist in successfully vacating the money judgment.

MITIGATING CIRCUMSTANCES.

Extreme Financial Difficulties: Respondent suffered extreme financial difficulties related to a medical condition that was beyond respondent's control. Respondent's financial difficulties contributed to his inability to attend State Bar Ethics School on or before October 5, 2017. (*Grim v. State Bar* (1991))

53 Cal.3d 21, 31 [mitigation appropriate for extreme financial difficulties resulting from circumstances beyond attorney's control]; *In the Matter of Ward* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 47, 60 [mitigation appropriate where there is a nexus between difficulties and misconduct].)

Pretrial Stipulation: Respondent is entitled to mitigation for entering into a pretrial stipulation as to facts and conclusions of law, thereby obviating the need for trial and saving State Bar resources. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [respondent received mitigation credit for entering into a stipulation as to facts and culpability].)

Respondent successfully completed State Bar Ethics School: Respondent successfully completed State Bar Ethics School on December 5, 2017. (*Conroy v. State Bar* (1990) 51 Cal.3d 799, 805 [mitigation appropriate for delayed compliance with conditions of discipline].)

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.)

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.)

Standard 1.8(a) provides that “[i]f a member has a single prior record of discipline, the sanction must be greater than the previously imposed sanction unless the prior discipline was so remote in time and the previous misconduct was not serious enough that imposing greater discipline would be manifestly unjust.” In this matter, the misconduct was serious and not remote in time. (*In the Matter of Downey* (2009) 5 Cal. State Bar Ct. Rptr. 151 [attorney's 1993 actual suspension for misrepresentations and failure to prosecute was a serious aggravating factor].) Therefore, Standard 1.8(a) applies, and a greater sanction than a private reproof is warranted.

Standard 2.14 provides that “[a]ctual suspension is the presumed sanction for failing to comply with a condition of discipline. The degree of sanction depends on the nature of the condition violated and the member's willingness or inability to comply with disciplinary orders.” Respondent is entitled to mitigation for entering into a pretrial stipulation, suffering financial difficulties, and attending State Bar Ethics School. On balance, those mitigating circumstances outweigh the aggravating circumstance of respondent's prior record of discipline. Thus, deviation from the presumed discipline of actual suspension is appropriate.

Under the Standards, a one-year stayed suspension with one year of probation serves the purposes of discipline. Case law supports that level of discipline.

In the Matter of Posthuma (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 813 (hereinafter “*Posthuma*”) is instructive. The attorney failed to pass the Professional Responsibility Examination, a

condition of his private reproof. The *Posthuma* decision distinguished *Conroy v. State Bar* (1990) 51 Cal.3d 799, where the Supreme Court imposed a period of actual suspension for an attorney's failure to pass the Professional Responsibility Examination. First, *Posthuma* diligently participated in the proceeding, while *Conroy* failed to do so. Second, *Posthuma*'s prior record of misconduct did not involve clients, while *Conroy*'s involved three clients. *Posthuma*'s prior record of discipline was the only aggravating circumstance. There were no mitigating circumstances. *Posthuma* received a public reproof.

Respondent is entitled to mitigation for entering into a pretrial stipulation, suffering financial difficulties, and attending State Bar Ethics School. Those mitigating circumstances outweigh the lone aggravating circumstance of a prior record of discipline. Like the attorney in *Posthuma*, respondent has diligently participated in this proceeding. Unlike the attorney in *Posthuma*, respondent's prior misconduct involved performance issues related to a client. Accordingly, discipline less severe than that in *Conroy, supra*, 51 Cal.3d 799, but more severe than that in *Posthuma* is appropriate.

A one-year period of stayed suspension with one year of probation serves the purposes of discipline.

COSTS OF DISCIPLINARY PROCEEDINGS.

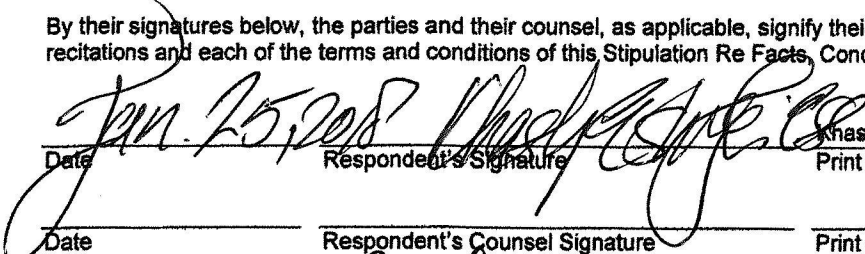
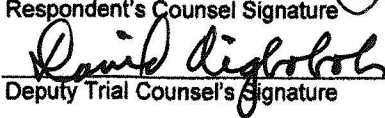
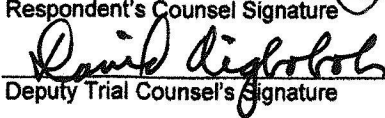
Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of January 3, 2018, the discipline costs in this matter are \$2,518. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

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In the Matter of: KHASHAYAR ESHRAGHI	Case number(s): 17-H-06213
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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>Jan. 25, 2018</u>	<u></u>	<u>Khashayar Eshraghi</u>
Date	Respondent's Signature	Print Name
<u>2/9/2018</u>	<u></u>	<u>David Aigboboh</u>
Date	Respondent's Counsel Signature	Print Name
<u>2/9/2018</u>	<u></u>	<u>David Aigboboh</u>
Date	Deputy Trial Counsel's Signature	Print Name

(Do not write above this line.)

In the Matter of: KHASHAYAR ESHRAGHI	Case Number(s): 17-H-06213
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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.

1. On p. 5, paragraph E(6), the box is checked regarding Respondent's duty to answer inquiries of the Office of Probation.
2. On p. 6, paragraph 1, the date "September 12" is corrected to read "September 14" as the date that the State Bar Court ordered private reproof.
3. On p. 6, under "Prior Record of Discipline," the date "September 12, 2016" is corrected to read "October 5, 2016" as the effective date that Respondent was privately reproofed.

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.)**

3/2/18


Date



DONALD F. MILES
Judge of the State Bar Court

ORIGINAL

(Do not write above this line.)

State Bar Court of California Hearing Department Los Angeles REPROVAL		
<p>Counsel For The State Bar</p> <p>Murray B. Greenberg Senior Trial Counsel 845 S. Figueroa Street Los Angeles, CA 90017 (213) 765-1258</p> <p>Bar # 142678</p>	<p>Case Number(s): 15-O-15226</p>	<p>For Court use only</p> <p style="text-align: center; font-size: 2em; font-weight: bold;">CONFIDENTIAL</p> <p style="text-align: center; font-weight: bold;">FILED</p> <p style="text-align: center;">SEP. 14 2016 </p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p>Khashayar Eshraghi 7165 Fountain Avenue Los Angeles, CA 90046 (818) 785-0400</p> <p>Bar # 229557</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>PRIVATE REPROVAL</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: KHASHAYAR ESHRAGHI</p> <p>Bar # 229557</p> <p>A Member of the State Bar of California (Respondent)</p>		

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- (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."

(Do not write above this line.)

- (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(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
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- (8) **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice. **See attachment, page 8.**
- (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 8.
- (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. **See attachment page 8.**
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- (3) **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct or to the State Bar during disciplinary investigation and proceedings.

(Do not write above this line.)

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- (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.
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- (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, page 8.**
- (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:

Pre-filing Stipulation - See attachment, page 8.

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 Reproof:

- (1) Respondent must comply with the conditions attached to the reproof for a period of **one year**.

(Do not write above this line.)

- (2) During the condition period attached to the reprobation, 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 reprobation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the reprobation conditions period, 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 reprobation. 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 the reprobation 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 reprobation with the probation monitor to establish a manner and schedule of compliance. During the reprobation conditions period, 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 reprobation.
- (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 reprobation.

No MPRE recommended. Reason:

- (11) The following conditions are attached hereto and incorporated:

(Do not write above this line.)

Substance Abuse Conditions

Law Office Management Conditions

Medical Conditions

Financial Conditions

F. Other Conditions Negotiated by the Parties:

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: KHASHAYAR ESHRAGHI
CASE NUMBER: 15-O-15226

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. 15-O-15226 (Complainant: Deborah Hatch)

FACTS:

1. On December 11, 2013, respondent entered into a legal services agreement with Inee Cendana and Debra Hatch, to provide legal representation for Caritas Home Health Providers Inc. in the matter of *Tower Group Companies vs. Caritas Home Health Providers Inc.*, Superior Court Case Number BC527916.
2. On April 9, 2015, respondent sent Inee Cendana an email with a substitution of attorney form attached, requesting that she forward it to her partner and indicating he would no longer be representing the interests of Caritas Home Health Providers Inc. The substitution of attorney form was not executed by Inee Cendana, Debra Hatch or anyone else from Caritas Home Health Providers Inc. Respondent remained the attorney of record before the court in the matter of *Tower Group Companies vs. Caritas Home Health Providers Inc.*, Superior Court Case Number BC527916.
3. On April 9, 2015, respondent effectively withdrew from employment and took no further action on behalf of his client, Caritas. He also did not obtain the permission of the court to withdraw.
4. On May 6, 2015, respondent failed to appear on behalf of his client, despite receiving notice, at a mandatory settlement conference.
5. On May 22, 2015, respondent failed to appear on behalf of his client, despite receiving notice, at a final status conference.
6. On June 3, 2015, respondent failed to appear on behalf of his client, despite receiving notice, at trial, resulting in an entry of judgment against Caritas Home Health Providers Inc. and a subsequent levy on its bank account in the amount of \$166,451.96 plus costs.
7. Respondent subsequently took steps to assist Caritas' new counsel in successfully vacating the judgment and levy on the bank account.

CONCLUSIONS OF LAW

8. By failing to appear on behalf of his client, Caritas Home Health Providers Inc. at a mandatory settlement conference on May 6, 2015, at a final settlement conference on May 22, 2015 and at trial on June 3, 2015, respondent repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

9. By failing to obtain and file an executed substitution of attorney form or otherwise seek permission from the court to withdraw from his representation of Caritas Home Health Providers Inc., respondent withdrew from employment in a proceeding before a tribunal without its permission, in willful violation of Rules of Professional Conduct, rule 3-700(A)(1).

10. By failing to act on behalf of his client, Caritas Home Health Providers Inc., without substituting out of the case, respondent effectively withdrew from employment, without taking reasonable steps to avoid reasonably foreseeable prejudice to his client, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

AGGRAVATING CIRCUMSTANCES.

Significant Harm to Client, Public or Administration of Justice (Std. 1.5(j)): Respondent's failure to appear at the final status conference and trial caused significant harm to his client which resulted in a judgment being entered against his client and a levy on the bank account. This was somewhat diminished by respondent assisting new counsel in successfully vacating the judgment and levy.

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent's failure to perform, in addition to his failures to properly withdraw from the case, demonstrates multiple acts of misconduct.

MITIGATING CIRCUMSTANCES.

No Prior Discipline (Std. 1.6(a)): Respondent practiced for 12 years without any prior discipline. He has no history of failing to appear in any case and his actions in this matter appear to be an isolated occurrence and an aberration.

Extreme Emotional, Physical, or Mental Difficulties and Disabilities (Std. 1.6(d)): Respondent has submitted medical records from his doctor which indicate he was suffering from a life threatening condition at the time of the misconduct. This condition severely limited his physical and mental ability to practice law and his doctor stated that his misconduct in this matter were directly attributable to his medical condition. The medical condition respondent suffered from is being treated with medication and is under control. There is no indication that his condition will prevent him from continuing to practice law in an ethical manner.

Extraordinary Good Character (Std. 1.6(f)): Respondent provided eight letters from individuals who were aware of the full extent of his misconduct, attesting to his extraordinarily good character.

Pre-filing Stipulation: By entering into this stipulation, respondent has acknowledged misconduct and is entitled to mitigation for recognition of wrongdoing and saving the State Bar significant resources and time. (*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).)

In this matter, respondent admits to committing two acts of professional misconduct. Standard 1.7(a) requires that where a respondent “commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed.”

The most severe sanction applicable to respondent’s misconduct is found in standard 2.7(c), which applies to respondent’s failure to perform and improper withdrawals. Standard 2.7(c) provides that “Suspension or reproof is the presumed sanction for performance, communication, or withdrawal violations, which are limited in scope or time. The degree of sanction depends on the extent of the misconduct and the degree of harm to the client or clients.”

In the instant matter, respondent’s misconduct was limited in scope and duration. There was significant harm due to his failure to properly withdraw from the case which resulted in a judgment being entered against his client and an ensuing levy on the bank account, however, respondent cooperated with subsequent counsel in successfully obtaining relief from the judgment and levy. Respondent was suffering from a life-threatening condition that affected his ability to competently perform in the instant matter, however, his condition is being treated and his physician is of the opinion that it is under control

and should not affect his ability to competently practice law. Respondent's 12 years of discipline free practice and the fact that this was an aberration make it unlikely that this misconduct will be repeated. The mitigating circumstances greatly outweigh the aggravating factors. Accordingly, discipline on the low end of the range provided by the Standards is appropriate. A private reproof, with probationary conditions for a period of one year, and with the condition that respondent attend a session of State Bar Ethics School and pass the test given at the end, will serve the purposes of protecting the public, the courts and the legal profession.

EXCLUSION FROM MINIMUM CONTINUING LEGAL EDUCATION ("MCLE") CREDIT

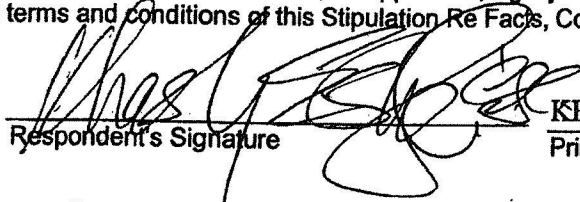
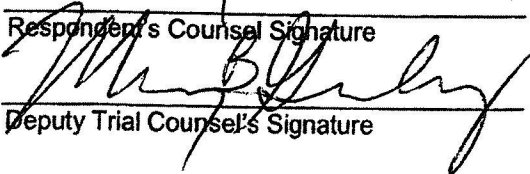
Respondent may not receive MCLE credit for completion of State Bar Ethics School (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of: KHASHAYAR ESHRAGHI	Case number(s): 15-O-15226
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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>9/5/2016</u> Date	 Respondent's Signature	<u>KHASHAYAR ESHRAGHI</u> Print Name
<u>9/8/16</u> Date	 Deputy Trial Counsel's Signature	<u>MURRAY B. GREENBERG</u> Print Name

(Do not write above this line.)

In the Matter of: KHASHAYAR ESHRAGHI	Case Number(s): 15-O-15226
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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:

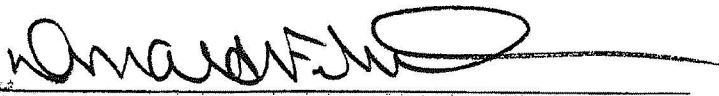
- The stipulated facts and disposition are APPROVED AND THE REPROVAL IMPOSED.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- All court dates in the Hearing Department are vacated.

Page 1; ¶ A(3): The stated length of the stipulation is amended to read "11 pages" – not "10."

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.

9/12/16
Date


Judge of the State Bar Court
DONALD F. MILES

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 September 14, 2016, 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:

KHASHAYAR ESHRAGHI
KHASHAYAR ESHRAGHI
7165 FOUNTAIN AVE
LOS ANGELES, CA 90046 - 5814

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

MURRAY GREENBERG, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 14, 2016.



Rose M. Luthi
Case Administrator
State Bar Court

The document to which this certificate is affixed is a full, true and correct copy of the original on file and of record in the State Bar Court.



ATTEST February 14, 2018
State Bar Court, State Bar of California,
Los Angeles

By Cristina Ortiz
Clerk

CERTIFICATE OF SERVICE

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

I am a Court Specialist 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 March 2, 2018, 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:

KHASHAYAR ESHRAGHI
KHASHAYAR ESHRAGHI
7165 FOUNTAIN AVE
LOS ANGELES, CA 90046 - 5814

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

DAVID E. AIGBOBOH, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on March 2, 2018.



Marc Krause
Court Specialist
State Bar Court