kwiktag® 197 149 532

ORIGINAL

(Do not write above this line.)

State Bar Court of California
Hearing Department
Los Angeles
ACTUAL SUSPENSION PUBLIC MATTER

Counsel For The State Bar	Case Number(s):	For Court use only
Cindy Chan **Deputy Trial Counsel** **845 S. Figueroa Street** **Los Angeles, California 90017** **(213) 765-1292** Bar # **247495**	**18-J-11128-CV**	**FILED** **JUN 11 2018** P.B. **STATE BAR COURT** **CLERK'S OFFICE** **LOS ANGELES**
In Pro Per Respondent **John Francis Meyers** **4414 Jett Road NW** **Atlanta, Georgia 30327** **(404) 597-1275** Bar # **116863**	Submitted to: **Assigned Judge** STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING **ACTUAL SUSPENSION** ☒ PREVIOUS STIPULATION REJECTED	
In the Matter of: **JOHN FRANCIS MEYERS** Bar # **116863** 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 3, 1984**.

(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 **12** 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".

(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):

- ☒ Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
- ☐ 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.

(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. **See page 9.**

(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 page 9.

(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.

(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.

Additional mitigating circumstances:

No Prior Record of Discipline, see page 9.

Restitution Without Threat or Force, see page 9.

Prefiling Stipulation, see page 9.

D. Discipline:

(1) ☒ **Stayed Suspension:**

(a) ☒ Respondent must be suspended from the practice of law for a period of **three (3) years**.

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:

(b) ☐ The above-referenced suspension is stayed.

(2) ☒ **Probation:**

Respondent must be placed on probation for a period of **three (3) years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

(3) ☒ **Actual Suspension:**

(a) ☒ Respondent must be actually suspended from the practice of law in the State of California for a period of **two (2) years**.

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:

E. Additional Conditions of Probation:

(1) ☐ If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, 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.

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

(3) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.

(4) ☒ Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.

(5) ☒ Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the 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.

(6) ☐ Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish 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.

(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 probation conditions.

(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: **Respondent is currently a resident of the State of Georgia. As per agreement by the parties, in lieu of Ethics School, see "Other Conditions Negotiated by the Parties" in section (F)(5) below.**

(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) ☐ The following conditions are attached hereto and incorporated:

☐ Substance Abuse Conditions ☐ Law Office Management Conditions

☐ Medical Conditions ☐ 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 during the period of actual suspension or within one year, whichever period is longer. **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) ☒ **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule **9.20**, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.

(3) ☐ **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule **9.20**, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.

(4) ☐ **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension: .

(5) ☒ **Other Conditions: Within one (1) year of the effective date of discipline herein, respondent must submit to the Office of Probation satisfactory proof of completion of no less than six (6) hours of Minimum Continuing Legal Education ("MCLE") approved courses in general legal ethics. This six-hour MCLE requirement is separate from any other MCLE requirement and respondent will not receive MCLE credit for the hours.**

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: JOHN FRANCIS MEYERS

CASE NUMBER: 18-J-11128

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. 18-J-11128 (Discipline in Other Jurisdiction)

PROCEDURAL BACKGROUND IN OTHER JURISDICTION:

1. On September 9, 1983, respondent was admitted to the practice of law in the State of Georgia.

2. Following an evidentiary hearing that took place on November 10, 2015 and November 11, 2015, the Special Master filed a Report on September 15, 2016, finding that the State Bar of Georgia had proven by clear and convincing evidence that respondent had committed violations of Georgia Rules of Professional Conduct, rules 1.4 (Failure to Communicate), 1.5 (Unreasonable Fee), 7.1(a)(1) (Communications Concerning a Lawyer's Services), 8.1(a) (False Statement Made in a Disciplinary Matter), and 8.4(a)(4) (Misconduct Involving Dishonesty, Fraud, Deceit, or Misrepresentation). The parties stipulate that Exhibit 1 attached hereto is a true and correct copy of Georgia Rules of Professional Conduct, rules 1.4, 1.5, 7.1, and 8.4, consisting of 9 pages.

3. The Review Panel filed a Report and Recommendation on May 3, 2017, finding that the State Bar of Georgia had proven by clear and convincing evidence that respondent had committed violations of Georgia Rules of Professional Conduct, rules 1.4, 1.5, 7.1(a)(1), and 8.4(a)(4), but not as to rule 8.1(a). The parties stipulate that Exhibit 2 attached hereto is a certified copy of the Review Panel's Report and Recommendation filed on May 3, 2017, consisting of 16 pages.

4. On December 11, 2017, the Supreme Court of Georgia filed its Judgment and Order adopting the findings and conclusions of the Review Panel and ordered that respondent be suspended from the practice of law for two years, effective December 11, 2017. The parties stipulate that Exhibit 3 attached hereto is a certified copy of the Order filed by the Supreme Court of Georgia on December 11, 2017, consisting of 11 pages.

5. The disciplinary proceeding in Georgia provided fundamental constitutional protection.

FACTS FOUND IN OTHER JURISDICTION:

6. At all relevant times, respondent was an equity partner at a large law firm, Seyfarth Shaw LLP ("Seyfarth"). Seyfarth performed legal services for J.M. Huber Corporation ("Huber") and its subsidiaries for many years. Among other interests, Huber manufactures specialty products, including

through one of its business units, CP Kelco, hydrocolloids, which are thickeners and stabilizers used in foods, pharmaceuticals, and some industrial products.

7. At all relevant times, MD was the general counsel for CP Kelco ("the in-house counsel"). Respondent was at all relevant times the primary contact person at Seyfarth for Huber/CP Kelco (hereinafter collectively "corporate client").

8. The in-house counsel told respondent that the corporate client permitted its in-house attorneys to perform outside legal work as long as it was not on company time and did not raise any conflicts of interest with company matters. The in-house counsel indicated to respondent a desire for Seyfarth to do some of the work for his own outside clients, most of which consisted of prominent athletes and other celebrities.

9. Beginning in 2011, attorneys at Seyfarth performed legal work on behalf of the in-house counsel's personal clients and for his private practice. When difficulties arose in collecting fees for said services, respondent, upon the suggestion of the in-house counsel, incorporated into the bills sent to the corporate client work that had actually been performed for the in-house counsel and his personal clients. Respondent edited descriptions of the work that had been performed to eliminate information that would make clear that the work was performed on matters unrelated to the corporate client. Furthermore, respondent instructed his associate to use the corporate client's client number in recording her work even though much of the work performed by her was for the in-house counsel and/or his private clients.

10. Respondent prepared and submitted ten falsified invoices over the course of eight months to the corporate client.

11. The general counsel of Huber ("Huber GC"), discovered oddities in the invoices submitted by respondent and conducted an investigation thereto. She, along with other Huber executives, confronted the in-house counsel on August 2, 2012 and he was terminated that same day. Later that year, Huber GC filed a grievance against the in-house counsel, who in response, implicated respondent. The in-house counsel voluntarily surrendered his license in April 2013.

12. Following a complaint to Seyfarth, Seyfarth conducted its own investigation into the matter and refunded the money the corporate client had paid ($38,055.73) and wrote off the rest ($55,295.88 for time that had been billed to the client but not paid, and $1,958.70 for work that had not yet been billed).

13. In August 2012, Seyfarth's Assistant General Counsel confronted respondent regarding the falsified invoices. Respondent admitted to making the alterations and offered to reimburse Seyfarth. Respondent resigned a few weeks later.

14. Respondent ultimately reimbursed Seyfarth a total of $95,310.31 for the amounts refunded to the corporate client and for the amounts the firm had to write off as a result of the improper billings.

CONCLUSIONS OF LAW:

15. As a matter of law, respondent's culpability of professional misconduct determined in the proceeding in Georgia warrants the imposition of discipline under the laws and rules binding upon respondent in the State of California at the time respondent committed the misconduct in the other jurisdiction, pursuant to Business and Professions Code section 6049.1, subdivision (a).

16. By preparing and submitting falsified invoices to the corporate client, respondent committed an act of moral turpitude, dishonesty, and corruption in willful violation of California Business and Professions Code, section 6106.

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Wrongdoing (Std. 1.5(b)): Respondent prepared and submitted ten falsified invoices over the course of eight months to the corporate client. (*In the Matter of Bach* (1991) 1 Cal. State Bar Ct. Rptr. 631, 646-647 [three instances of misconduct considered multiple acts].)

Significant Harm to Client, Public or Administration of Justice (Std. 1.5(j)): As a result of the aforementioned misconduct, both respondent's firm and the corporate client suffered significant financial harm. Respondent's firm had to refund the money the corporate client had paid ($38,055.73) and write off the rest ($55,295.88 for time that had been billed to the client but not paid, and $1,958.70 for work that had not yet been billed).

MITIGATING CIRCUMSTANCES.

No Prior Discipline: Respondent was admitted to the State Bar of California in 1984 and practiced for 17 years prior to becoming voluntarily inactive in 2001. He then became active again in 2007 and practiced for another 5 years prior to becoming voluntarily inactive again in 2013. Respondent's over 20 years of discipline free practice is entitled to significant mitigating weight. (*In the Matter of Friedman* (1990) 50 Cal. 3d 235, 245 [more than 20 years of unblemished record was "highly significant"].)

Restitution Without Threat or Force: Respondent reimbursed his law firm a total of $95,310.31 for the improper billings and resigned upon confrontation by its Assistant General Counsel, but prior to initiation of any disciplinary proceedings. Thus, the restitution made by respondent is entitled to minimal mitigating weight. (*Finch v. The State Bar* (1981) 28 Cal. 3d 659, 666 ["However, restitution in the Whitla and Pope matters is entitled to little weight since it was made pursuant to confrontation by petitioner's law partners in the Whitla matter and under pressure of the State Bar in the Pope matter."].)

Prefiling 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]; *In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521 [where the attorney's stipulation to facts and culpability was held to be a mitigating circumstance].)

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. (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).)

In this matter, respondent was found culpable of professional misconduct in Georgia, and to determine the appropriate sanction in this proceeding, it is necessary to consider the equivalent rule or statutory violation under California law. Specifically, respondent's misconduct in Georgia demonstrates a violation of California Business and Professions Code, section 6106 (commission of an act of moral turpitude, dishonesty, or corruption).

Pursuant to standard 2.11, which applies to respondent's violation of California Business and Professions Code, section 6106:

> "Disbarment or actual suspension is the presumed sanction for an act of moral turpitude, dishonesty, fraud, corruption, intentional or grossly negligent misrepresentation, or concealment of a material fact. The degree of sanction depends on the magnitude of the misconduct; the extent to which the misconduct harmed or misled the victim, which may include the adjudicator; the impact on the administration of justice, if any; and the extent to which the misconduct related to the member's practice of law."

In aggravation, respondent committed multiple acts of misconduct by preparing and submitting ten falsified invoices over the course of eight months to the corporate client. (*In the Matter of Bach* (1991) 1 Cal. State Bar Ct. Rptr. 631, 646-647 [three instances of misconduct considered multiple acts].) This caused significant financial harm to both respondent's firm and the corporate client. As a result of respondent's submission of the falsified invoices, respondent's firm had to refund the money the corporate client had paid ($38,055.73) and write off the rest ($55,295.88 for time that had been billed to the client but not paid, and $1,958.70 for work that had not yet been billed).

In mitigation, respondent's more than 20 years of discipline free practice is entitled to significant weight. (*In the Matter of Friedman* (1990) 50 Cal. 3d 235, 245 [more than 20 years of unblemished record was "highly significant"].) While respondent ultimately reimbursed his firm a total of $95,310.31 for the improper billings and resigned, he only did so upon being confronted by his firm, so the restitution made is entitled to little weight. (*Finch v. The State Bar* (1981) 28 Cal. 3d 659, 666 ["However, restitution in the Whitla and Pope matters is entitled to little weight since it was made

pursuant to confrontation by petitioner's law partners in the Whitla matter and under pressure of the State Bar in the Pope matter."].)

Taking into account the misconduct itself, which was related to the practice of law, and the aggravating and mitigating circumstances discussed above, a three-year period of suspension, stayed, with a three-year period of probation with conditions including a two-year period of actual suspension, 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 is necessary to protect the public, the courts, and the legal profession; maintain high professional standards; and preserve public confidence in the legal profession.

Case law supports this level of discipline, In *In the Matter of Berg* (1997) 3 Cal. State Bar Ct. Rptr. 725, the attorney was found culpable of violating section 6106 where he fraudulently billed an insurance company over a 14-month period in 41 cases. He regularly billed for work before it was performed, and on multiple occasions, billed 100 hours of personal work in a single day. He defrauded the insurance company of about $250,000. Berg was also found culpable of violating Rule 4-100(B)(4) where he failed to make disbursement to the client for a period of six weeks. Berg received minimal mitigation for his pro bono work. In aggravation, he had a prior private reproval, he refused to acknowledge any misconduct in his billing, and was found to have committed a pattern of misconduct. Based on the foregoing, the court concluded that nothing less than disbarment was appropriate.

Respondent's misconduct is not quite as egregious as that exhibited by the attorney in *Berg*. While respondent undoubtedly engaged in multiple acts of misconduct, he did not engage in a "pattern" of misconduct where there is no evidence that he had ever submitted falsified invoices or charged for unearned fees as to other clients. Furthermore, unlike the attorney in *Berg*, respondent reimbursed his firm shortly after confrontation. While minimal mitigating credit should be given for his restitution, since it was not made until his firm confronted him about the matter, there is no evidence that respondent lacks insight into his misconduct as was found in *Berg*. Finally, unlike the attorney in *Berg*, respondent has no prior level of discipline and is not culpable of any other misconduct separate from the falsified invoices. Therefore, disbarment is not warranted.

Nonetheless, given the seriousness of the misconduct and the aggravating and mitigating circumstances, an actual suspension of a significant period of time is necessary to achieve the purposes of discipline. Based on the foregoing, the appropriate level of discipline is a three-year period of suspension, stayed, with a three-year probation on condition of a two-year period of actual suspension, 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.

COSTS OF DISCPLINARY PROCEEDINGS

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of May 11, 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.

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

Respondent may not receive MCLE credit for completion of the six (6) hours of MCLE required by section (F)(5) of this stipulation. (Rules Proc. of State Bar, rule 3201.)

In the Matter of: **JOHN FRANCIS MEYERS**	Case number(s): **18-J-11128**

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.

5/14/18 Date	Respondent's Signature	JOHN FRANCIS MEYERS Print Name
— Date	N/A Respondent's Counsel Signature	N/A Print Name
5/18/18 Date	Deputy Trial Counsel's Signature	CINDY CHAN Print Name

In the Matter of: **JOHN FRANCIS MEYERS**	Case Number(s): **18-J-11128**

ACTUAL 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.

On page 4 of the stipulation, an "X" is INSERTED in box D(1)(b) to stay the three-year suspension provided for in paragraph D(1)(a).

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.)**

June 11, 2018
Date

Cynthia Valenzuela
CYNTHIA VALENZUELA
Judge of the State Bar Court

EXHIBIT 1

Ga. R. & Regs. St. Bar 1.4

The rules incorporate all state rule changes received by the publisher through March 22, 2018, for state and federal courts

***Georgia** Court **Rules** > **RULES** AND REGULATIONS FOR THE ORGANIZATION AND GOVERNMENT OF THE STATE BAR OF **GEORGIA** > PART IV. **GEORGIA** **RULES OF PROFESSIONAL CONDUCT** > PART ONE-- CLIENT-LAWYER RELATIONSHIP*

***Rule** 1.4* Communication.

(a) A lawyer shall:

(1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in ***Rule*** 1.0(h), is required by these ***Rules***;

(2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;

(3) keep the client reasonably informed about the status of the matter;

(4) promptly comply with reasonable requests for information; and

(5) consult with the client about any relevant limitation on the lawyer's ***conduct*** when the lawyer knows that the client expects assistance not permitted by the ***Rules of Professional Conduct*** or other law.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

The maximum penalty for a violation of this ***Rule*** is a public reprimand.

Comment

[1] Reasonable communication **between the lawyer and the client is necessary for the client effectively to participate in the representation.**I Communicating with Client

[2] If these Rules require th**at a particular decision about the representation be made by the client, paragraph (a)(1) requires that the lawyer promptly consult with and secure the client's informed consent prior to taking action unless prior discussions with the client have resolved what action the client wants the lawyer to take.***For example, a lawyer who receives from opposing counsel an offer of settlement in a civil controversy or a proffered plea bargain in a criminal case must promptly inform the client of its substance unless the client has previously indicated that the proposal will be acceptable or unacceptable or has authorized the lawyer to accept or to reject the offer. See **Rule** 1.2(a).*

[3] Paragraph (a)(2) requires **the lawyer to reasonably consult with the client about the means to be used to accomplish the client's objectives.***In some situations -- depending on both the importance of the action under consideration and the feasibility of consulting with the client -- this duty will require consultation prior to taking action. In other circumstances, such as during a trial when an immediate decision must be made, the exigency of the situation may require the lawyer to act without prior consultation. In such cases the lawyer must nonetheless act reasonably to inform the client of actions the lawyer has taken on the client's behalf. Additionally, paragraph (a)(3) requires that the lawyer keep the client reasonably informed about the status of the matter, such as significant developments affecting the timing or the substance of the representation.*

[4] A lawyer's regular commun**ication with clients will minimize the occasions on which a client will need to request information concerning the representation.***When a client makes a reasonable*

request for information, however, paragraph (a)(4) requires prompt compliance with the request, or if a prompt response is not feasible, that the lawyer, or a member of the lawyer's staff, acknowledge receipt of the request and advise the client when a response may be expected. Client telephone calls should be promptly returned or acknowledged. The timeliness of a lawyer's communication must be judged by all the controlling factors. "Prompt" communication with the client does not equate to "instant" communication with the client and is sufficient if reasonable under the relevant circumstances.

I Explaining Matters

[5] The client should have sufficient information to participate intelligently in decisions concerning the objectives of the representation and the means by which they are to be pursued, to the extent the client is willing and able to do so.*Adequacy of communication depends in part on the kind of advice or assistance that is involved. For example, where there is time to explain a proposal made in a negotiation, the lawyer should review all important provisions with the client before proceeding to an agreement. In litigation a lawyer should explain the general strategy and prospects of success and ordinarily should consult the client on tactics that are likely to result in significant expense or to injure or coerce others. On the other hand, a lawyer ordinarily will not be expected to describe trial or negotiation strategy in detail. The guiding principle is that the lawyer should fulfill reasonable client expectations for information consistent with the duty to act in the client's best interests, and the client's overall requirements as to the character of representation. In certain circumstances, such as when a lawyer asks a client to consent to a representation affected by a conflict of interest, the client must give informed consent, as defined in* ***Rule*** *1.0(h).*

[6] Ordinarily, the information to be provided is that appropriate for a client who is a comprehending and responsible adult.*However, fully informing the client according to this standard may be impracticable, for example, where the client is a child or suffers from diminished capacity. See* ***Rule*** *1.14. When the client is an organization or group, it is often impossible or inappropriate to inform every one of its members about its legal affairs; ordinarily, the lawyer should address communications to the appropriate officials of the organization. See* ***Rule*** *1.13. Where many routine matters are involved, a system of limited or occasional reporting may be arranged with the client.*

I Withholding Information

[7] In some circumstances, a lawyer may be justified in delaying transmission of information when the client would be likely to react imprudently to an immediate communication.*Thus, a lawyer might withhold a psychiatric diagnosis of a client when the examining psychiatrist indicates that disclosure would harm the client. A lawyer may not withhold information to serve the lawyer's own interest or convenience or the interest or convenience of another person.* ***Rules*** *or court orders governing litigation may provide that information supplied to a lawyer may not be disclosed to the client.*

End of Document

Ga. R. & Regs. St. Bar 1.5

The rules incorporate all state rule changes received by the publisher through March 22, 2018, for state and federal courts

Georgia Court Rules > RULES AND REGULATIONS FOR THE ORGANIZATION AND GOVERNMENT OF THE STATE BAR OF GEORGIA > PART IV. GEORGIA RULES OF PROFESSIONAL CONDUCT > PART ONE-- CLIENT-LAWYER RELATIONSHIP

Rule 1.5 Fees.

(a) A lawyer's fee shall be reasonable. The factors to be considered in determining the reasonableness of a fee include the following:

(1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;

(2) the likelihood that the acceptance of the particular employment will preclude other employment by the lawyer;

(3) the fee customarily charged in the locality for similar legal services;

(4) the amount involved and the results obtained;

(5) the time limitations imposed by the client or by the circumstances;

(6) the nature and length of the ***professional*** relationship with the client;

(7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and

(8) whether the fee is fixed or contingent.

(b) When the lawyer has not regularly represented the client, the basis or rate of the fee shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation.

(c)

(1) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by paragraph (d) or other law. A contingent fee agreement shall be in writing and shall state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal, litigation and other expenses to be deducted from the recovery, and whether such expenses are to be deducted before or after the contingent fee is calculated.

(2) Upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement stating the following:

(i) the outcome of the matter; and,

(ii) if there is a recovery, showing the:

(A) remittance to the client;

(B) the method of its determination;

(C) the amount of the attorney fee; and

(D) if the attorney's fee is divided with another lawyer who is not a partner in or an associate of the lawyer's firm or law office, the amount of fee received by each and the manner in which the division is determined.

(d) A lawyer shall not enter into an arrangement for, charge, or collect:

(1) any fee in a domestic relations matter, the payment or amount of which is contingent upon the securing of a divorce or upon the amount of alimony or support, or property settlement in lieu thereof; or

(2) a contingent fee for representing a defendant in a criminal case.

(e) A division of a fee between lawyers who are not in the same firm may be made only if:

(1) the division is in proportion to the services performed by each lawyer or, by written agreement with the client, each lawyer assumes joint responsibility for the representation;

(2) the client is advised of the share that each lawyer is to receive and does not object to the participation of all the lawyers involved; and

(3) the total fee is reasonable.

The maximum penalty for a violation of this ***Rule*** is a public reprimand.

Comment

I Reasonableness of Fee and Expenses

[1] Paragraph (a) requires that **lawyers charge fees that are reasonable under the circumstances.***The factors specified in (1) through (8) are not exclusive. Nor will each factor be relevant in each instance. Paragraph (a) also requires that expenses for which the client will be charged must be reasonable. A lawyer may seek reimbursement for the cost of services performed in-house, such as copying, or for other expenses incurred in-house, such as telephone charges, either by charging a reasonable amount to which the client has agreed in advance or by charging an amount that reasonably reflects the cost incurred by the lawyer.*

[1A] A fee can also be unreasonable **if it is illegal.***Examples of illegal fees are those taken without required court approval, those that exceed the amount allowed by court order or statute, or those where acceptance of the fee would be unlawful, e.g., accepting controlled substances or sexual favors as payment.*

I Basis or Rate of Fee

[2] When the lawyer has regularly **represented a client, they ordinarily will have evolved an understanding concerning the basis or rate of the fee.***In a new client-lawyer relationship, however, an understanding as to the fee should be promptly established. It is not necessary to recite all the factors that underlie the basis of the fee, but only those that are directly involved in its computation. It is sufficient, for example, to state that the basic rate is an hourly charge or a fixed amount or an estimated amount, or to identify the factors that may be taken into account in finally fixing the fee. When developments occur during the representation that render an earlier estimate substantially inaccurate, a revised estimate should be provided to the client. A written statement concerning the fee reduces the possibility of misunderstanding. Furnishing the client with a simple memorandum or a copy of the lawyer's customary fee schedule is sufficient if the basis or rate of the fee is set forth.*

[3] Contingent fees, like any **other fees, are subject to the reasonableness standard of paragraph (a) of this Rule.***In determining whether a particular contingent fee is reasonable, or whether it is reasonable to charge any form of contingent fee, a lawyer must consider the factors that are relevant under the circumstances.*

I Terms of Payment

[4] A lawyer may require advance **payment of a fee, but is obliged to return any unearned portion.***See* ***Rule*** *1.16(d). A lawyer may accept property in payment for services, such as an ownership interest in an enterprise, providing this does not involve acquisition of a proprietary interest in the cause of action or subject matter of the litigation contrary to* ***Rule*** *1.8(j). However, a fee paid in property instead of money may be subject to the requirements of* ***Rule*** *1.8(a) because such fees often have the essential qualities of a business transaction with the client.*

[5] An agreement may not be made, the terms of which might induce the lawyer improperly to curtail services for the client or perform them in a way contrary to the client's interest.*For example, a lawyer should not enter into an agreement whereby services are to be provided only up to a stated amount when it is foreseeable that more extensive services probably will be required, unless the situation is adequately explained to the client. Otherwise, the client might have to bargain for further assistance in the midst of a proceeding or transaction. However, it is proper to define the extent of services in light of the client's ability to pay. A lawyer should not exploit a fee arrangement based primarily on hourly charges by using wasteful procedures.*

I Prohibited Contingent Fees

[6] Paragraph (d) prohibits a lawyer from charging a contingent fee in a domestic relations matter when payment is contingent upon the securing of a divorce or upon the amount of alimony or support or property settlement to be obtained.*This provision does not preclude a contract for a contingent fee for legal representation in connection with the recovery of post-judgment balances due under support, alimony or other financial orders because such contracts do not implicate the same policy concerns. See Formal Advisory Opinions 36 and 47.*

I Division of Fee

[7] A division of fee is a single billing to a client covering the fee of two or more lawyers who are not in the same firm.*A division of fee facilitates association of more than one lawyer in a matter in which neither alone could serve the client as well. Joint responsibility for the representation entails financial and ethical responsibility for the representation.*

[8] Paragraph (e) does not prohibit or regulate division of fees to be received in the future for work done when lawyers were previously associated in a law firm.I Disputes over Fees

[9] If a procedure has been established for resolution of fee disputes, such as an arbitration or mediation procedure established by the Bar, the lawyer should conscientiously consider submitting to it.*Law may prescribe a procedure for determining a lawyer's fee, for example, in representation of an executor or administrator, a class or a person entitled to a reasonable fee as part of the measure of damages. The lawyer entitled to such a fee and a lawyer representing another party concerned with the fee should comply with the prescribed procedure.*

End of Document

Ga. R. & Regs. St. Bar 7.1

The rules incorporate all state rule changes received by the publisher through March 22, 2018, for state and federal courts

Georgia Court Rules > RULES AND REGULATIONS FOR THE ORGANIZATION AND GOVERNMENT OF THE STATE BAR OF GEORGIA > PART IV. GEORGIA RULES OF PROFESSIONAL CONDUCT > PART SEVEN-- INFORMATION ABOUT LEGAL SERVICES

Rule 7.1 Communications Concerning a Lawyer's Services.

(a) A lawyer may advertise through all forms of public media and through written communication not involving personal contact so long as the communication is not false, fraudulent, deceptive or misleading. By way of illustration, but not limitation, a communication is false, fraudulent, deceptive or misleading if it:

(1) contains a material misrepresentation of fact or law or omits a fact necessary to make the statement considered as a whole not materially misleading;

(2) is likely to create an unjustified expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate the Georgia Rules of Professional Conduct or other law;

(3) compares the lawyer's services with other lawyers' services unless the comparison can be factually substantiated;

(4) fails to include the name of at least one lawyer responsible for its content; or

(5) contains any information regarding contingent fees, and fails to conspicuously present the following disclaimer:

"Contingent attorneys' fees refers only to those fees charged by attorneys for their legal services. Such fees are not permitted in all types of cases. Court costs and other additional expenses of legal action usually must be paid by the client."

(6) contains the language "no fee unless you win or collect" or any similar phrase and fails to conspicuously present the following disclaimer:

"No fee unless you win or collect" [or insert the similar language used in the communication] refers only to fees charged by the attorney. Court costs and other additional expenses of legal action usually must be paid by the client. Contingent fees are not permitted in all types of cases.

(b) A public communication for which a lawyer has given value must be identified as such unless it is apparent from the context that it is such a communication.

(c) A lawyer retains ultimate responsibility to insure that all communications concerning the lawyer or the lawyer's services comply with the Georgia Rules of Professional Conduct.

The maximum penalty for a violation of this Rule is disbarment.

Comment

[1] This rule governs the content of all communications about a lawyer's services, including the various types of advertising permitted by Rules 7.3 through 7.5. Whatever means are used to make known a lawyer's services, statements about them should be truthful.

[2] The prohibition in sub-paragraph (a)(2) of this Rule 7.1:*Communications Concerning a Lawyer's Services of statements that may create "unjustified expectations" would ordinarily preclude advertisements about results obtained on behalf of a client, such as the amount of a damage award or*

the lawyer's record in obtaining favorable verdicts, and advertisements containing client endorsements. Such information may create the unjustified expectation that similar results can be obtained for others without reference to the specific factual and legal circumstances.

I Affirmative Disclosure

[3] In general, the intrusion* on the First Amendment right of commercial speech resulting from rationally-based affirmative disclosure requirements is minimal, and is therefore a preferable form of regulation to absolute bans or other similar restrictions.For example, there is no significant interest in failing to include the name of at least one accountable attorney in all communications promoting the services of a lawyer or law firm as required by sub-paragraph (a)(5) of Rule 7.1: Communications Concerning a Lawyer's Services. Nor is there any substantial burden imposed as a result of the affirmative disclaimer requirement of sub-paragraph (a)(6) upon a lawyer who wishes to make a claim in the nature of "no fee unless you win." Indeed, the United States Supreme Court has specifically recognized that affirmative disclosure of a client's liability for costs and expenses of litigation may be required to prevent consumer confusion over the technical distinction between the meaning and effect of the use of such terms as "fees" and "costs" in an advertisement.*

[4] Certain promotional commu*nications of a lawyer may, as a result of content or circumstance, tend to mislead a consumer to mistakenly believe that the communication is something other than a form of promotional communication for which the lawyer has paid.Examples of such a communication might include advertisements for seminars on legal topics directed to the lay public when such seminars are sponsored by the lawyer, or a newsletter or newspaper column which appears to inform or to educate about the law. Paragraph (b) of this Rule 7.1: Communications Concerning a Lawyer's Services would require affirmative disclosure that a lawyer has given value in order to generate these types of public communications if such is in fact the case.*

I Accountability

[5] Paragraph (c) makes explic*it an advertising attorney's ultimate responsibility for all the lawyer's promotional communications and would suggest that review by the lawyer prior to dissemination is advisable if any doubts exist concerning conformity of the end product with these Rules.Although prior review by disciplinary authorities is not required by these Rules, lawyers are certainly encouraged to contact disciplinary authorities prior to authorizing a promotional communication if there are any doubts concerning either an interpretation of these Rules or their application to the communication.*

End of Document

Ga. R. & Regs. St. Bar 8.4

The rules incorporate all state rule changes received by the publisher through March 22, 2018, for state and federal courts

Georgia Court Rules > RULES AND REGULATIONS FOR THE ORGANIZATION AND GOVERNMENT OF THE STATE BAR OF GEORGIA > PART IV. GEORGIA RULES OF PROFESSIONAL CONDUCT > PART EIGHT-- MAINTAINING THE INTEGRITY OF THE PROFESSION

Rule 8.4 Misconduct.

(a) It shall be a violation of the Georgia Rules of Professional Conduct for a lawyer to:

(1) violate or knowingly attempt to violate the Georgia Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

(2) be convicted of a felony;

(3) be convicted of a misdemeanor involving moral turpitude where the underlying conduct relates to the lawyer's fitness to practice law;

(4) engage in professional conduct involving dishonesty, fraud, deceit or misrepresentation;

(5) fail to pay any final judgment or rule absolute rendered against such lawyer for money collected by him or her as a lawyer within ten days after the time appointed in the order or judgment;

(6)

(i) state an ability to influence improperly a government agency or official by means that violate the Georgia Rules of Professional Conduct or other law;

(6)

(ii) state an ability to achieve results by means that violate the Georgia Rules of Professional Conduct or other law;

(6)

(iii) achieve results by means that violate the Georgia Rules of Professional Conduct or other law;

(7) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law; or

(8) commit a criminal act that relates to the lawyer's fitness to practice law or reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer, where the lawyer has admitted in judicio, the commission of such act.

(b)

(1) For purposes of this Rule, conviction shall include any of the following accepted by a court, whether or not a sentence has been imposed:

(i) a guilty plea;

(ii) a plea of nolo contendere;

(iii) a verdict of guilty; or

(iv) a verdict of guilty but mentally ill.

(2) The record of a conviction or disposition in any jurisdiction based upon a guilty plea, a plea of nolo contendere, a verdict of guilty, or a verdict of guilty but mentally ill, or upon the imposition of first offender probation shall be conclusive evidence of such conviction or disposition and shall be admissible in proceedings under these disciplinary rules.

(c) This Rule shall not be construed to cause any infringement of the existing inherent right of Georgia Superior Courts to suspend and disbar lawyers from practice based upon a conviction of a crime as specified in paragraphs (a) (1), (a) (2) and (a) (3) above.

(d) Rule 8.4 (a) (1) does not apply to any of the Georgia Rules of Professional Conduct for which there is no disciplinary penalty.

The maximum penalty for a violation of Rule 8.4 (a) (1) is the maximum penalty for the specific Rule violated. The maximum penalty for a violation of Rule 8.4 (a) (2) through (c) is disbarment.

Comment

[1] The prohibitions of this Rule as well as the prohibitions of Bar Rule 4-102 prevents a lawyer from attempting to violate the Georgia Rules of Professional Conduct or from knowingly aiding or abetting, or providing direct or indirect assistance or inducement to another person who violates or attempts to violate a rule of professional conduct. A lawyer may not avoid a violation of the rules by instructing a nonlawyer, who is not subject to the rules, to act where the lawyer can not.

[2] This Rule, as its predece*ssor, is drawn in terms of acts involving 'moral turpitude" with, however, a recognition that some such offenses concern matters of personal morality and have no specific connection to fitness for the practice of law.Here the concern is limited to those matters which fall under both the rubric of 'moral turpitude" and involve underlying conduct relating to the fitness of the lawyer to practice law.*

[3] Many kinds of illegal con*duct reflect adversely on fitness to practice law, such as offenses involving fraud and the offense of willful failure to file an income tax return.However, some kinds of offenses carry no such implication. Traditionally, the distinction was drawn in terms of offenses involving "moral turpitude." That concept can be construed to include offenses concerning some matters of personal morality, such as adultery and comparable offenses, that have no specific connection to fitness for the practice of law. Although a lawyer is personally answerable to the entire criminal law, a lawyer should be professionally answerable only for offenses that indicate lack of those characteristics relevant to law practice. Offenses involving violence, dishonesty, breach of trust, or serious interference with the administration of justice are in that category. A pattern of repeated offenses, even ones of minor significance when considered separately, can indicate indifference to legal obligation.*

[4] Reserved.

[5] A lawyer may refuse to co*mply with an obligation imposed by law upon a good faith belief that no valid obligation exists.The provisions of Rule 1.2(d) concerning a good faith challenge to the validity, scope, meaning or application of the law apply to challenges of legal regulation of the practice of law.*

[6] Persons holding public of*fice assume responsibilities going beyond those of other citizens.A lawyer's abuse of public office can suggest an inability to fulfill the professional role of lawyers. The same is true of abuse of positions of private trust such as trustee, executor, administrator, guardian, agent and officer, director or manager of a corporation or other organization.*

End of Document

EXHIBIT 2

IN THE SUPREME COURT

STATE OF GEORGIA

DISCIPLINARY PROCEEDINGS

IN THE MATTER OF:	)	SUPREME COURT DOCKET
	)	N0. S14B1946
	)	
JOHN F. MEYERS	)	STATE DISDCIPLINARY BOARD
State Bar No. 503692,	)	DOCKET NO. 6537
Respondent.	)	

REPORT AND RECOMMENDATION OF THE REVIEW PANEL

This is a disciplinary proceeding involving Respondent John F. Meyers. The Report and Recommendation of the Special Master is before the Review Panel at the request of Respondent pursuant to Rule 4-217(d) of the Rules and Regulations Governing the State Bar of Georgia, Part IV, Chapter 2. The Review Panel has considered this matter and makes the following Report and Recommendation to the Supreme Court of Georgia pursuant to Rule 4-218.

Procedural Background

The Investigative Panel of the State Disciplinary Board found probable cause to initiate this formal disciplinary proceeding against Respondent on June 14, 2013, based on a grievance filed by Lori Roeser in October 2012. The State Bar of Georgia filed a Formal Complaint on August 28, 2014, charging Respondent with violations of Rule of Professional Conduct 1.4 (Communication), Rule 1.5 (Fees), Rule 7.1(a)(1)

(Communication Concerning a Lawyer's Services), Rule 8.1(a) (Bar Admission and Disciplinary Matters), and Rule 8.4(a)(4) (Misconduct).

Respondent acknowledged service of the Formal Complaint and filed a timely Answer. Following discovery, the Special Master convened an evidentiary hearing on November 10 and 11, 2015. On September 15, 2016, the Special Master entered a Report finding Respondent in violation of Rules 1.4, 1.5, 7(a)(1), 8.1(a), and 8.4(a)(4) and recommending disbarment. Respondent filed Exceptions and a Request for review by the Review Panel. The State Bar filed a response requesting that the Review Panel affirm the and adopt the Report of the Special Master. The Review Panel heard oral argument and issues this Report and Recommendation to the Supreme Court.

Brief Statement of the Case

This Complaint alleges that Respondent submitted false and altered invoices to his firm's client, Huber Corporation, for legal work done by his firm for the private clients of Michael Ditano, the in-house counsel for Huber.

After reviewing all of the evidence, the SM found that Respondent knowingly submitted false or materially misleading statements in his invoices to his client Huber which concealed work done for other clients. The Special Master also found that Respondent submitted false and misleading information in his sworn response to the Notice of Investigation and in his testimony claiming Huber's in-house counsel Michael Ditano duped him into altering the narratives in the billing invoices. The Special Master concluded that Respondent violated all Rules charged in the Formal Complaint, Rules 1.4, 1.5, 7(a)(1), 8.1(a), and 8.4(a)(4), and recommended disbarment.

Burden of Proof of State Bar

Pursuant to Rule 4-221(e), the State Bar has the burden of proving each element of a Rule alleged to have been violated by clear and convincing evidence.

Standard of Review of the Review Panel

Upon receipt of a report from a special master, Rule 4-218(d) provides that the Review Panel shall consider the record, make findings of fact and conclusions of law and a recommendation regarding discipline. The findings of fact and conclusions of law made by a special master are not binding on the Panel and may be reversed on the basis of the record.

Review of Findings of Fact of Special Master

The Special Master conducted an evidentiary hearing in which he heard testimony from multiple witnesses, including the Respondent. Based on the testimony and documentary evidence, the Special Master made detailed findings of fact. (Report of Special Master, Record 81-130.) After careful review of the Report and the complete record, the Review Panel adopts the Findings of Fact of the Special Master and incorporates them by reference in this Report.

Review of Conclusions of Law of the Special Master

The Review Panel agrees with the Conclusions of Law of the Special Master that Respondent's conduct violates Rule of Professional Conduct 1.4 (duty to communicate and keep client informed), Rule 1.5 (lawyer's fees shall be reasonable), Rule 7.1(a)(1) (communication regarding a lawyer's services), and Rule 8.4(a)(4) (professional conduct involving dishonesty, fraud, deceit or misrepresentation). The Review Panel does not agree with the conclusion that Respondent violated Rule 8.1(a), as discussed below.

Rule of Professional Conduct 1.4. Communication.

Rule 1.4 of the Rules of Professional Conduct provides in part that a lawyer shall reasonably consult with the client about the means by which the client's objectives are to be accomplished, keep the client reasonably informed about the status of the matter, and promptly comply with reasonable requests for information. The Rule was amended in 2011 and provides in pertinent part that a lawyer "shall explain a matter to the extent reasonable necessary to permit the client to make informed decisions regarding the representation, shall keep the client informed about the status of the matter and promptly comply with reasonable requests for information and consult with the client regarding limitations on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or law."

The Review Panel agrees with the Special Master that Respondent violated Rule 1.4 when he failed to communicate with the client about his billings to the extent reasonably necessary to permit the client to make an informed decision. In this case, Mr. Ditano requested changes to the invoices that concealed work done for another client. Respondent should have concluded that altering the invoices was misleading and unethical. His failure to communicate and consult with corporate counsel for Huber violated Rule 1.4.

Rule of Professional Conduct 1.5. Fees

Rule 1.5(a)(1) of the Rules of Professional Conduct provides that a lawyer shall not collect an unreasonable fee. The factors to be considered in determining the reasonableness of a fee include the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly. The

Review Panel agrees with the Special Master that Respondent violated Rule 1.5(a)(1) by charging and collecting fees from his client Huber for services which he or members of his firm did not perform for Huber, and by charging and collecting fees from Huber for work done for other clients.

Rule of Professional Conduct 7.1(a)(1). Communications Concerning a Lawyer's Services

Rule 7.1 (a) of the Rules of Professional Conduct provides that a lawyer may advertise through all forms of written communication "so long as the communication is not false, fraudulent, or misleading." Section (1) provides that a communication is false, fraudulent, deceptive or misleading if it "contains a material misrepresentation of fact or law necessary to make the statement considered as a whole not materially misleading."

While this Rule is directed to communications regarding the advertising of lawyers' services, Comment 1 to this Rule states that the Rule governs the content of all communications about a lawyer's services, including various types of advertising. Formal Advisory Opinion 01-1 further instructs that this Rule applies to all communications, including precision in billing.

Based on this Advisory Opinion and Comment, The Review Panel agrees with the Special Master that the billing invoices prepared by Respondent omitted essential facts rendering them materially misleading in violation of Rule 7.1(a)(1).

Rule 8.4(a)(4). Misconduct

Rule 8.4(a)(4) provides that a lawyer shall not engage in professional conduct involving dishonesty, fraud, deceit or misrepresentation. The Review Panel agrees with the Special Master that Respondent violated this Rule by preparing and submitting false and misleading invoices to Huber for work done by his firm for other clients.

Rule 8.1(a). Bar Admission and Disciplinary Matters

Rule 8.1(a) of the Rules of Professional Conduct provides that a lawyer shall not make a false statement of a material fact in connection with a disciplinary matter. Respondent admitted in his response to the disciplinary investigation that he allowed altered billing statements to be sent to Huber at the direction of Mr. Ditano. The Special Master reasoned that Respondent's actions demonstrated knowing involvement in the scheme and his response constituted a false statement of a material fact during the investigation of a disciplinary complaint.

Respondent filed exceptions to the conclusions of the Special Master on this issue. He contends that the facts do not support a finding by clear and convincing evidence that he provided a false statement during the disciplinary investigation. Respondent admitted to allowing altered bills to be sent to Huber for work performed for other clients. Respondent's defense in this case is based on his claim that he was misled and deceived by Mr. Ditano.

As the Special Master notes in his Report, there was a conflict in the testimony on the question of how Respondent became involved in altering the invoices. After hearing the testimony of witnesses and reviewing the evidence, the Special Master ultimately concluded that Respondent knowingly participated in the scheme to submit false and misleading billing invoices to his client.

This is not a case in which the Respondent is alleged to have fabricated evidence during the investigation of the grievance to bolster his positon with the Investigative Panel as in In the Matter of Shehane, 276 Ga. 168 (2003) (Respondent fabricated two letters and postal receipts to deceive the Investigative Panel); or a case in which he

provided a response that was factually inaccurate such as In the Matter of Davis, 290 Ga. 84 (2012) (Davis asserted falsely in her untimely responses to the disciplinary investigation that she was present in court on two dates when she was not present either time as confirmed by the client and several witnesses).

While the conclusion can be drawn from the facts that Respondent's conduct was deceptive and misleading, the Review Panel does not agree that the Bar Rules require such an admission during the investigation and prior to the evidentiary hearing. For this reason, the Review Panel concludes that Respondent did not make a false statement of material fact in his response to the disciplinary investigation in violation of Rule 8.1(a).

Consideration of Respondent's Exceptions
to the Report of the Special Master

The Review Panel has considered Respondent's Exceptions to the Report of the Special Master as follows:

Exception 1. Rule 7.1(a)(1) Communications Concerning a Lawyer's Services.

Respondent challenges the legal authority cited in support of a violation of Rule 7.1(a)(1). He contends Formal Advisory Opinion 01-1 and In the Matter of Majette, 295 Ga. 4, (2014) do not support a violation of Rule 7.1(a)(1).

The Majette case involved multiple violations of the Rules of Professional Conduct as a result of submitting wholly unsupported and materially misleading time sheets and invoices to her client and misrepresenting her hours and fees to a court. Respondent characterizes the misconduct in Majette as "rounding up" time after the fact. He contends that in this case "editing down billing narrative" is not materially misleading. He admits the alterations could be considered misleading but there is no legal authority to support a finding that they are *materially* misleading. After

consideration of Respondent's arguments, the Review Panel agrees with the Special Master that Respondent's conduct violates Rule 7.1(a)(1). Comment 1 to Rule 8.1 states that this Rule governs the content of all communications about a lawyer's services. Formal Advisory Opinion 01-1 further instructs that this rule applies to all communications, including precision in billing. Based on the interpretation of this Rule provided by Formal Advisory opinion 01-1 and In the Matter of Majette, 295 Ga. 4 (2014), the Review Panel agrees with the Special Master that the alterations to the billing invoices were misleading and omitted essential facts rendering the billing invoices materially misleading in violation of Rule 7.1(a)(1).

Exception 2 - Rule 8.1(a) - Making a false statement of material fact in connection with a disciplinary matter.

As discussed previously in reviewing the Conclusions of Law regarding Rule 8.1(a), Respondent contends the findings of the Special Master do not support a violation by clear and convincing evidence that he provided a false statement of material fact during this disciplinary proceeding. Respondent states he did not deny the fact that he prepared the invoices to Huber, but contends he would be deprived of his defense if the Bar Rules require him to admit that he intentionally defrauded his client. As noted in the Report of the Special Master, there was conflicting testimony as to how the plan to change the invoices developed between Respondent and Mr. Ditano. Ultimately the Special Master concluded that Respondent's conduct demonstrated a knowing involvement in a scheme to submit altered invoices to his client after considering all of the testimony and reviewing the documents.

As discussed above, while the Review Panel agrees with the Special Master's conclusion as to Respondent's knowing involvement in the scheme to alter the invoices,

the Review Panel does not agree that the Bar Rules require such an admission during the investigation and prior to the evidentiary hearing. For this reason, the Review Panel agrees with Respondent and finds no violation of Rule 8.1(a).

Exception 3 - Rule 8.4(a)(4) – Misconduct

Respondent contends the State Bar did not prove a violation of this Rule by clear and convincing evidence. Respondent admitted that legal services provided to other clients were billed to Huber. He contends the Bar did not prove that Respondent was complicit with Mr. Ditano and that the Special Master relied entirely on the testimony of a witness who was not credible and failed to take into consideration Respondent's status as a long standing and well respected member of the Bar for thirty-two years with no prior complaints. Respondent draws a distinction between his conduct and the misconduct in In the Matter of Majette, 295 Ga. 4 (2014) which involved submitting wholly unsupported and materially misleading time sheets and invoices to her client. While the facts in these cases are different, the fee statements submitted to Huber were misleading and false because they did not accurately reflect the work done for Huber. They did not include a notation or any indication that they included work done for other clients. The fee statements were drafted and revised in such a way as to conceal that the work was done for other clients. Based on a careful review of the record, the Review Panel agrees with the Special Master that Respondent's conduct violated Rule 8.4(a)(4) by clear and convincing evidence.

Exception 4 - Additional mitigating factors should be taken into consideration.

When considering a recommendation of discipline in this case, the Special Master noted two mitigating factors, no prior disciplinary record and character witnesses on

Respondent's behalf. Respondent contends the Special Master failed to take additional mitigating factors into consideration. These factors include the absence of a dishonest or selfish motive (ABA Standard 9.32(b); timely good faith effort to make restitution and rectify consequences of misconduct (ABA Standard 9.32(d); full and free disclosure to the disciplinary board and cooperative attitude (ABA Standard 9.32(e); and remorse (ABA Standard 9.32(l).

Although not specifically designated as a mitigating factor, the Special Master noted in his Findings of Fact that Respondent reimbursed his firm for the fees billed to Huber. Lori Roeser, Seyfarth's General Counsel, met with Respondent when Huber complained about the billing invoices. At that time, Respondent admitted that he made all the alterations to the bills. (Special Master's Report, Record 106.) Respondent offered to reimburse Seyfarth or Huber for the inappropriate time billing. He resigned from Seyfarth a few weeks later. Respondent reimbursed Seyfarth approximately $90,000 for the fees refunded by Seyfarth to Huber for the invoices it had already paid, and for the invoices Seyfarth had sent to Huber that had not yet been paid. (Special Master's Report, Record 106.)

With regard to a cooperative attitude in the disciplinary process, and full and free disclosure, there is no indication in the record that Respondent failed to respond to the investigation. His failure to admit every violation alleged during the investigation and the conclusions to be drawn should not be deemed an uncooperative attitude.

Exception 5 – The aggravating factors are not supported by the evidence.

Respondent challenges the Special Master's findings in aggravation that he submitted false statements to a tribunal (ABA Standard 9.22(f)), and refused to acknowledge the wrongful nature of his conduct (ABA Standard 9.22(g)).

As noted in the previous discussion regarding Rule 8.1, Respondent admits that he prepared the invoices submitted to Huber, but contends he would be deprived of his defense if the Bar Rules require him to admit that he intentionally defrauded his client. He draws a distinction between the admission of facts, such as preparation of the invoices, and admission of the conclusions to be drawn from those facts. After considering all of the testimony and reviewing the documents, the Special Master concluded that Respondent's conduct demonstrated a knowing involvement in a scheme to submit altered invoices to his client. While the Review Panel agrees with this conclusion, the Review Panel finds that Respondent did not make a false statement of material fact to a tribunal and this should not be considered an aggravating factor in this case.

Respondent also points out that he acknowledged the wrongful nature of his conduct (ABA Standard 9.22(g)), he made restitution, and has expressed remorse. The Special Master notes in his Report that Respondent acknowledged he made the alterations to the invoices when he was first approached by his firm, he offered to reimburse Seyfarth or Huber and he did in fact do so. (Report of Special Master, Record 106.) Generally, a timely good faith effort to make restitution or to rectify consequences of misconduct is considered a mitigating factor. (ABA Standard 9.32(d).

Exception 6 - The Special Master relies on an excessively harsh recommendation of discipline in light of the burden of proof and the few aggravating factors.

Respondent contends the recommendation of disbarment in this case is too harsh, He submits that at least three of the Rules charged in this case were not supported by clear and convincing evidence, that additional mitigating factors should be considered, and the cases cited to support disbarment can be distinguished.

The most difficult issue in this case is the appropriate level of discipline to be imposed. The violations in this case are extremely serious and troublesome. After reviewing the complete record, the testimony of the witnesses and the extensive documentary evidence, it is clear that Respondent altered the invoices he submitted to Huber to conceal work done for other clients. Respondent contends this was done at the behest of Huber's in house counsel; it was nevertheless deceptive and misleading. Respondent's conduct defies explanation based on his lengthy and distinguished career.

Violations of Rules 7.1(a)(1), and 8.4 may be punished by disbarment. The maximum discipline which may be imposed for violations of Rules 1.4 and 1.5 is a public reprimand. Previous disciplinary cases provide guidance. The Special Master recommendation of disbarment is based on In the Matter of Majette, 295 Ga. 4 (2104). As previously discussed, Majette involved multiple violations of the Rules of Professional Conduct as a result of Majette submitting wholly unsupported and materially misleading time sheets and invoices to her client and misrepresenting her hours and fees to a court. There are significant differences between Majette and the present case. Majette did not keep contemporaneous time records, she recreated inflated invoices for work after the fact, she demanded payment of large invoices without itemizing her work even after being requested to do so by her client, she failed to credit retainer fees, she charged for attending a continuing legal education program unrelated to her client's case,

she made false statements to the Probate Court, she protracted settlement of the client's case by filing liens, and she refused to express remorse and admit that there was anything inappropriate about her conduct.

In another case involving fee statements, In the Matter of Friedman, 270 Ga. 5 (1998), Friedman's fee application to the bankruptcy court did not disclose $1,500 in attorney's fees payed to him; the fee was prohibited and illegal under bankruptcy rules; the fee application contained other falsehoods and misrepresentations which mislead the bankruptcy court about the fee to which Friedman was entitled. During the disciplinary proceeding, Friedman fabricated information about the involvement of his associate. Upon the recommendation of the Special Master and the Review Panel, Friedman was disbarred.

The Special Master also relies on cases involving false statements to a tribunal. In In the Matter of Mays, 269 Ga. 100 (1998), Mays allowed the statute of limitations to run on his client's case; he paid his client out of his own funds; he lied about what really happened in his conversations with her in his untimely answer to the Notice of Investigation and in his testimony during the evidentiary hearing; and he had a prior disciplinary record of three public reprimands and an Investigative Panel reprimand. This case resulted in disbarment based on Mays' lack of regard for his responsibilities to his client, his disregard for the interests of other clients and the disciplinary process, and the lack of any mitigating factors. In In the Matter of Davis, 290 Ga. 84 (2012), the Respondent asserted falsely in her untimely responses to the disciplinary investigation that she was present in court on two dates when she was not present either time as confirmed by the client

and several witnesses. In In the Matter of Shehane, 276 Ga. 168 (2003) the Respondent fabricated two letters and postal receipts to deceive the Investigative Panel.

While acknowledging that Respondent's conduct in this matter is unacceptable and in violation of the Rules of Professional Conduct, the Review Panel concludes that disciplinary cases resulting in disbarment for misleading and fraudulent fee statements typically include more aggravating factors which are not present in this case. Comparing the conduct which resulted in disbarment in these examples, and taking into consideration the fact that Respondent has made full restitution to his firm, the client was reimbursed for any loss, and Respondent has never been the subject of a disciplinary complaint, the Review Panel believes that a lengthy suspension would be more appropriate discipline in this case.

Recommendation of Discipline

After carefully reviewing the Special Master's Report, Respondent's Exceptions, the Response of Bar Counsel, the complete record in this case, and for the reasons stated in this Report, the Review Panel recommends a two year suspension from the practice of law as the appropriate discipline in this case.

Panel members in favor of the motion: Anthony B. Askew, Oliver Wendell Horne, Sarah Brown Akins, J. Robert Persons, Clarence Pennie, Thomas C. Rounds, Aimee P. Sanders, Robert J. Kauffman, and Jack R.B. Long. No Panel members were opposed. No Panel members abstained.

This 26th day of [illegible], 2017.

Anthony B. Askew
Chair, Review Panel
State Disciplinary Board

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this day served a true and correct copy of the Report and Recommendation of the Review Panel by depositing same in the United States mail, with adequate postage, addressed as follows:

S. Lester Tate, III
W. Matthew Wilson
Post Office Box 878
Cartersville, GA 30120

Jonathan Hewett
Senior Assistant General Counsel
Office of the General Counsel
State Bar of Georgia
104 Marietta Street, NW, Suite 100
Atlanta, GA 30303

This 26th day of April, 2017.

Anthony B. Askew
Chair, Review Panel
State Disciplinary Board

Supreme Court
State of Georgia
STATE JUDICIAL BUILDING
Atlanta 30334

SUPREME COURT OF THE STATE OF GEORGIA
CLERK'S OFFICE, ATLANTA

May 22, 2018

I hereby certify that the foregoing pages, attached hereto, contain a true and complete copy of the Report and Recommendation of the Review Panel, which is a part of the record in Case Number **S17Y1593. IN THE MATTER OF JOHN F. MEYERS.**

Witness my signature and seal of the said Court hereto affixed the day and year above written.

Lisa C. Fulton, Chief Deputy Clerk

EXHIBIT 3

302 Ga. 742
FINAL COPY

S17Y1593. IN THE MATTER OF JOHN F. MEYERS.

PER CURIAM.

This disciplinary matter is before the Court on the report of the Review Panel, which recommends rejecting the special master's recommendation of disbarment and instead imposing a two-year suspension on respondent John F. Meyers (State Bar No. 503692) for his violations of various Georgia Rules of Professional Conduct, see Bar Rule 4-102 (d). Both the State Bar and Meyers have timely filed exceptions to the Review Panel's report and recommendation. We agree with the Review Panel that the circumstances of this case warrant a two-year suspension.

The evidence presented in this case is significant and conflicting, but the following appears to be undisputed. A member of the Georgia Bar since 1983, Meyers was at all relevant times an equity partner at a large law firm. He had billing responsibilities for many clients, including the large corporate client at issue in this case. For a number of years, Meyers's law firm performed legal services for the corporate client and its subsidiaries. The contact person for the

corporate account was in-house counsel for one of the corporation's wholly-owned subsidiaries.

At some point, in-house counsel told Meyers that his employer permitted its in-house attorneys to perform outside legal work as long as it was not on company time and did not raise any conflicts of interest with company matters, and in-house counsel indicated a desire for Meyers's law firm to do some of the work for his own outside clients. As a result, beginning in 2011, attorneys at the firm did legal work for the benefit of in-house counsel's personal clients and for his private practice. When difficulties arose in collecting the fees for those services from the in-house counsel's personal clients, the amounts due were rolled into the bills sent to the law firm's corporate client, with the descriptions of the work that had been performed edited to eliminate information that would make clear that the work was not performed directly for the corporate client.[1] The corporate client discovered the practice and fired in-house counsel in August 2012.[2] The client then initiated an inquiry with the law firm, which

---

[1] In-house counsel testified that Meyers initially had agreed to write off the cost of those services as "client development," then came back to in-house counsel saying that he needed to recoup the fees somehow. Meyers denies ever agreeing to write off the fees. It does not appear that the special master resolved this dispute.

[2] Ultimately, in-house counsel was allowed to voluntarily surrender his license to practice law in Georgia. See In the Matter of Ditano, 293 Ga. 79 (743 SE2d 427) (2013).

reimbursed the corporate client for the amounts it had actually paid, wrote off the other invoices, and confronted Meyers.

From the start, Meyers admitted that he submitted the altered bills but asserted, as he still does, that he did so at the behest of in-house counsel, who Meyers contended advised him that the procedure was acceptable because much of the work performed ultimately would be beneficial to the corporate client and because in-house counsel would reimburse the corporate client for any work that was not beneficial to it. When confronted, Meyers immediately offered to reimburse the firm or the client, and he did ultimately repay the law firm.[3] Meyers, who resigned within a few weeks of being confronted, now acknowledges that the alterations to the bills could have helped conceal from the corporate client the fact that the legal work was performed on behalf of the in-house counsel and his clients, but nevertheless steadfastly denies any knowing participation in a scheme to defraud the client. Instead, Meyers claims that he was duped and misled by in-house counsel, whom he reasonably trusted.

Based on this conduct, the State Bar charged Meyers with violating Rules

---

[3] In its formal complaint, the State Bar avers that Meyers paid the firm $95,310.31 — $38,055.73 for improper billings that the client had paid, $55,295.88 for the firm's write-off of time that had been billed to the client but not paid, and $1,958.70 for the firm's write-off of work that had not been billed.

1.4, 1.5 (a), 7.1 (a) (1), 8.1 (a), and 8.4 (a) (4) of the Georgia Rules of Professional Conduct. See Bar Rule 4-102 (d). The maximum penalty for a violation of Rule 1.4 or 1.5 (a) is a public reprimand, while the maximum penalty for a violation of Rule 7.1 (a) (1), 8.1 (a), or 8.4 (a) (4) is disbarment.

The matter was heard by special master David Anthony LaMalva, who issued a report and recommendation finding that Meyers had violated all of the Rules with which he had been charged and recommending disbarment as the appropriate remedy. Meyers filed exceptions to the special master's report and recommendation and the case proceeded to the Review Panel, which subsequently issued its own report and recommendation. The Review Panel agreed with the special master that the clear and convincing evidence showed that Meyers had violated Rules 1.4, 1.5 (a), and 7.1 (a) (1) and further agreed that Meyers had violated Rule 8.4 (a) (4) by preparing and submitting false and misleading invoices to the corporate client for work done by the law firm for other clients. The Review Panel rejected, however, the special master's conclusion that Meyers's continued denial during the disciplinary proceedings that he was complicit in any scheme to defraud the corporate client amounted to a violation of Rule 8.1 (a). The Review Panel reasoned that the Bar Rules do not require an attorney to choose between admitting an intentional violation of

the Rules in the disciplinary action or facing a Rule 8.1 (a) violation. Similarly, although the Review Panel found that Meyers violated Rule 8.4 (a) (4) based on the bills he submitted to the client, the Review Panel, unlike the special master, did not rely on any dishonesty by Meyers during the disciplinary process in finding a violation of this rule.

In considering the appropriate disciplinary sanction, the Review Panel agreed with the special master's determination that Meyers's lack of prior disciplinary history and the good character witnesses he presented were mitigating factors. The Panel recognized as a mitigating factor Meyers's having reimbursed his firm for both the fees that the firm had refunded to the corporate client and those fees that had been billed but not paid. The Panel also said that there was no indication in the record that Meyers had failed to respond to the disciplinary investigation, saying that Meyers's failure to admit every violation alleged during the investigation or "the conclusions to be drawn" from the evidence should not be deemed an uncooperative attitude. In aggravation, Meyers did not challenge the special master's findings that the case involved multiple offenses and that he had substantial experience in the practice of law. But the Review Panel rejected the special master's findings in aggravation that Meyers did not acknowledge the wrongful nature of his conduct and that he

submitted false statements to a tribunal by refusing to concede that he intentionally defrauded his client.

Ultimately, the Review Panel concluded that, although the violations in the case were extremely serious, the special master's proposed punishment of disbarment was too harsh under the circumstances. The Review Panel sought to distinguish cases relied on by the special master in which lawyers had been disbarred after being found to have been dishonest during the disciplinary process.[4] The Panel held that although Meyers's conduct in this matter was

---

[4] The Review Panel distinguished In the Matter of Majette, 295 Ga. 4 (757 SE2d 114) (2014) on the ground that Majette involved the purposeful submission of wholly unsupported and materially misleading time sheets and invoices to her client, misrepresenting her hours and fees to a court, creating inflated invoices for work after the fact despite the failure to maintain contemporaneous time records, failing to credit retainer fees to a client's account, charging a client for attending a CLE seminar unrelated to the client's case, protracting settlement of the client's case by filing an unsupportable lien against the client, and refusing to admit the wrongful nature of her conduct or to express remorse. It distinguished In the Matter of Friedman, 270 Ga. 5, 6-7 (505 SE2d 727) (1998), as involving an attorney's failure to disclose to the bankruptcy court the payment of $1,500 in attorney fees, which was prohibited and illegal under bankruptcy rules, his submission to the bankruptcy court of documents riddled with other falsehoods and misrepresentations meant to mislead the court, and his fabrication during the disciplinary proceedings of information about the involvement of his associate. It distinguished In the Matter of Mays, 269 Ga. 100 (495 SE2d 30) (1998), as involving the purposeful misrepresentation of facts to a client and to disciplinary authorities by an attorney with a significant prior disciplinary history. It distinguished In the Matter of Shehane, 276 Ga. 168 (575 SE2d 503) (2003), as involving a lawyer who had fabricated documentary evidence to deceive the Investigative Panel. Finally, it distinguished In the Matter of Davis, 290 Ga. 857 (725 SE2d 216) (2012), in that the lawyer there provided what the Panel termed a "factually inaccurate" response in a disciplinary proceeding — to the effect that she was present in court when she was not — that was refuted by the client and several witnesses.

unacceptable and in violation of the Rules of Professional Conduct, the cases resulting in disbarment for misleading and fraudulent fee statements typically include more aggravating factors not present in this case. And, after taking into consideration the facts that Meyers had made full restitution to his firm, that the client was reimbursed for any loss, and that Meyers has never been the subject of a disciplinary complaint in his extensive 30-year-plus legal career, the Review Panel unanimously concluded that a two-year suspension from the practice of law was a more appropriate discipline.

Both Meyers and the State Bar have filed exceptions to the Review Panel's report, challenging at length its conclusions as to the various disciplinary violations, its consideration of mitigating and aggravating circumstances, and its recommendation as to the appropriate level of discipline. After this Court's extensive review of the record in this case, we agree with the Review Panel's findings and conclusions as to the various Rules violations and as to the mitigating and aggravating factors. In particular, we agree with the Review Panel's implicit conclusion that a lawyer's decision to put up a defense in a disciplinary proceeding — whether by disputing evidence against him or refusing to concede whatever inferences the State Bar argues may be drawn therefrom — is not always an aggravating factor that counsels imposition of

harsher discipline. Further, this Court agrees that a two-year suspension from the practice of law is a sufficient sanction for Meyers's conduct in this case. See In the Matter of Moore, 300 Ga. 407 (792 SE2d 324) (2016) (one-year suspension with conditions for violations of Rules 3.3, 4.1, and 8.4 (a) (4) where attorney failed to serve opposing party with pleadings, falsely stated in certificates of service that he had done so, misrepresented communications with the opposing party, denied wrongdoing in the disciplinary proceedings, and expressed neither remorse nor acceptance of responsibility); In the Matter of Reddick-Hood, 296 Ga. 95 (764 SE2d 416) (2014) (three-year suspension with conditions for violations of various Rules including 1.4, 8.1, and 8.4 (a) (4), despite prior disciplinary history, where attorney provided restitution and expressed remorse and other mitigating factors were present); In the Matter of Lang, 292 Ga. 894 (741 SE2d 152) (2013) (accepting petition for voluntary discipline and imposing a 12-month suspension with conditions — while recognizing substantial mitigating circumstances — for violations of Rules 1.4, 1.15 (II), and 4.1 based on misuse of trust account and prolonged effort to deceive client and opposing counsel); In the Matter of Wright, 291 Ga. 841 (732 SE2d 275) (2012) (public reprimand and six-month suspension where attorney violated Rules 3.3 and 8.4 by making false statements to the Court of Appeals and continued to deny

wrongdoing throughout the disciplinary proceedings). Accordingly, John F. Meyers hereby is suspended from the practice of law in the State of Georgia for a period of two years. Because there are no conditions on Meyers's reinstatement other than the passage of time, there is no need for him to take any action either through the State Bar or through this Court to effectuate his return to the practice of law. Instead, the suspension based on this opinion will take effect as of the date this opinion is issued and will expire by its own terms two years later. Meyers is reminded of his duties pursuant to Bar Rule 4-219 (c).

Two-year suspension. All the Justices concur.

Decided December 11, 2017.

Suspension.

Paula J. Frederick, General Counsel State Bar, Jenny K. Mittelman, Jonathan W. Hewett, Assistant General Counsel State Bar, for State Bar of Georgia.

Akin & Tate, S. Lester Tate III, W. Matthew Wilson, for Meyers.

Supreme Court
State of Georgia
STATE JUDICIAL BUILDING
Atlanta 30334

SUPREME COURT OF THE STATE OF GEORGIA

CLERK'S OFFICE, ATLANTA

May 22, 2018

I hereby certify that the foregoing pages, attached hereto, contain a true and complete copy of the opinion of the Supreme Court of Georgia in **S17Y1593. IN THE MATTER OF JOHN F. MEYERS,** as appears from the file in this office.

Witness my signature and seal of the said Court hereto affixed the day and year above written.

Lisa C. Fulton, Chief Deputy 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 June 11, 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:

JOHN FRANCIS MEYERS
4414 JETT RD NW
ATLANTA, GA 30327 - 3559

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

CINDY W.Y. CHAN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on June 11, 2018.

Paul Barona

Paul Barona
Court Specialist
State Bar Court