

Filed June 12, 2019

STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

In the Matter of)	No. 17-C-05540
)	
IMRAN A. KHALIQ,)	OPINION AND ORDER
)	[As Modified on August 2, 2019]
State Bar No. 232607.)	
_____)	

Embroiled in a volatile intimate relationship, Imran A. Khaliq lost control one night and assaulted his girlfriend. She suffered black eyes, cuts, and other minor injuries. As a result, he faced criminal charges against him, and then this disciplinary proceeding.

A superior court judge determined that the victim’s injuries did not constitute “significant or substantial physical injury” and, therefore, concluded that there was no “great bodily injury” under Penal Code section 12022.7. Another superior court judge ultimately found Khaliq guilty of a misdemeanor violation of Penal Code section 273.5, subdivision (a) (injuring spouse, cohabitant, fiancé, boyfriend, girlfriend, or child’s parent), and sentenced him to a three-year probation with conditions, including six months in jail, which he served in the Sheriff’s Alternative Work Program.

Khaliq’s conviction was referred for a trial in this court, and he appeals the hearing judge’s recommendation that he be disbarred. He also challenges the judge’s moral turpitude finding and requests no more than a six-month actual suspension. The Office of Chief Trial Counsel of the State Bar (OCTC) does not appeal and agrees with the disbarment recommendation.

After independently reviewing the record (Cal. Rules of Court, rule 9.12), we agree with the hearing judge’s culpability findings, including that the facts and circumstances surrounding

Khaliq's misdemeanor criminal conviction involve moral turpitude. However, we find less aggravation and more mitigation than did the hearing judge. As a result, while we consider Khaliq's misconduct to be serious and warranting the utmost concern, we disagree with the judge's disbarment recommendation under these circumstances. Instead, we recommend a three-year probation with conditions, including a two-year actual suspension, continuing until he provides proof of his rehabilitation and fitness to practice law.

I. SIGNIFICANT PROCEDURAL HISTORY

OCTC transmitted evidence of Khaliq's criminal conviction to the Review Department on September 21, 2017, and evidence of the finality of that conviction on November 30. On March 8, 2018, we referred the matter to the Hearing Department to determine the recommended discipline to be imposed and to resolve factual issues as to whether Khaliq's misconduct involved moral turpitude.

II. FACTUAL BACKGROUND

A. AUGUST 2015 ASSAULT

At the time of the assault that is the subject of the criminal case, Khaliq and his girlfriend, also a lawyer, had been dating for a little more than two years. Their relationship was marked by jealousy, arguing, and rough—and sometimes painful—sexual play. In addition to the current misconduct, both acknowledge that she had violently pushed, head-butted, scratched, bruised, or bit Khaliq during similar arguments on three prior occasions.

1. Jealousy from Prior Relationships

Khaliq had a prior relationship with another woman, S. W.,¹ who worked part-time in the San Francisco Bay Area, and continued to spend a few nights a week in his apartment even after

¹ Only her initials are used to preserve her privacy.

they had broken up. According to both Khaliq and S. W., their relationship was no longer a romantic one after their break-up.

A year into his relationship with his girlfriend, Khaliq discovered that she was married and living with her husband. Jealousy arising from these prior relationships was one cause of conflict since both had just recently ended their respective relationships when Khaliq and his girlfriend started dating.²

2. Khaliq Assaults his Girlfriend

After a date on August 9, 2015 where they each consumed three glasses of wine and one and one-half glasses of beer, Khaliq and his girlfriend returned to his home where they engaged in foreplay on his couch. When she became upset that he was being too rough taking off her clothes, she refused to have sex with him. She told him that she wanted to leave and also stated that she did not want to be in the apartment where S. W. lived. He was upset because he believed that she had participated in arousing him, and then rejected him. She got up to leave and Khaliq claims she squeezed him in the neck, kneed him in the groin, and “head-butted him,” either intentionally or inadvertently.³ He became angry and upset and stated that he reacted to her kneeling him. He first slapped, then punched her in the face at least twice. After punching her, she fell to the floor and was temporarily disoriented.⁴ Khaliq’s girlfriend suffered injuries and began to bleed from Khaliq’s assault. Immediately after striking her, Khaliq stated “Look what you made me do.”

² In an email from his girlfriend apologizing for a previous incident in April 2015, she acknowledged her jealousy at seeing S. W.’s car at his house.

³ Khaliq’s girlfriend asserts that she was not aggressive toward him during this incident.

⁴ Khaliq’s girlfriend testified that she may have been temporarily unconscious, but the superior court judge conducting the preliminary hearing found the evidence to be ambiguous and concluded that she did not lose consciousness. As a result, the judge found no support for a finding of “great bodily injury.”

3. Khaliq Expresses Remorse

The next day, on August 10, 2015, Khaliq's girlfriend was treated at the hospital for her injuries, which included two black eyes, facial contusions, swollen face and jaw, and a head laceration. That same day, Khaliq sent her numerous text messages apologizing for his behavior. She responded to his initial text messages by sending him pictures of her injuries. In contrast to his immediate reaction the day before, his August 10 and 11 messages included multiple expressions of remorse:

"I'm sorry I lost control. I just really wanted you and was too worked up."

"God. I can't believe this."

"I am truly ashamed of myself."

"I am very ashamed of myself for hurting you and letting myself get out of control."

"If there is anything I can do right now to alleviate your hurt and pain, I will drop everything and do what I can to repair the pieces."

"I know I caused you a lot of hurt and pain, and that is unacceptable. I don't know what had come over me and I should have let you go home when I dropped you off."

"I love you and would never want to hurt you. I can't even fathom my own actions and what clicked in me to put me in such a rage."

"I can't even begin to imagine what you have been going through this week. If I could take away the pain, hurt and scars, I would make them my own."

Khaliq sent several other text messages on August 10 and 11 that contained similar content. His girlfriend did not respond except to say that she was "going away for a while."

4. Khaliq Is Arrested

On August 15, 2015, Khaliq's girlfriend filed a police report with the San Mateo County Sheriff's Office, and an emergency protective order (EPO) was issued to prevent Khaliq from contacting or approaching her. He was arrested that same day. On September 13, he filed his own belated police report with that Sheriff's Office, describing an earlier, April 2015, incident when

his girlfriend assaulted him. Because she testified against Khaliq in the preliminary hearing, the prosecutor in Khaliq's criminal case agreed not to prosecute her for her alleged assault.

On September 18, Khaliq contacted his girlfriend by text.⁵ He told her that he was being charged with a felony and could lose his law license. He asked if he could speak with her.

Khaliq's girlfriend missed three to four weeks of work and received therapy for a period of time after the assault.

B. KHALIQ'S ACTIONS PRIOR TO ASSAULT

1. Background

In July 2015, a month before the assault, Khaliq's girlfriend left a note at the front of Khaliq's house. It was a single sheet of folded paper with no envelope and was essentially a love note expressing how much she had enjoyed being with Khaliq:⁶

“. . . Thank you for spending the time with me. I had a great day, night and morning. You are truly amazing. . . . With love, . . .”

While the note was not antagonistic in any way, Khaliq was irritated that she left it at his house in plain view because he thought she was actually intending to communicate with S. W., who stayed at his house a few days a week.

2. Khaliq Pretended to be his Girlfriend's Prospective Employer

The same day the love note was posted at the front of his house, Khaliq played what he referred to as a “prank” to pay his girlfriend back for leaving the note. During a two-day period, from July 13 to 14, 2015, he sent her text messages from a work phone, and pretended to be the

⁵ The record is unclear as to how long the EPO was in effect. The EPO was not received into evidence but, at oral argument, Khaliq said he waited until it expired to contact her.

⁶ The discussion of the love note was not included in the hearing judge's decision, but is an important antecedent to clarify the background of the acts described below.

CEO of a company where his girlfriend had sought employment the previous month.⁷ In these messages, he attempted to schedule an interview with her, and included inappropriate and unprofessional language and requests. Khaliq's girlfriend reported the text messages to the company's human resources department. The company and the CEO denied sending any such texts or making inappropriate comments and, in turn, reported to the Palo Alto Police Department that someone was pretending to be the CEO. When the police contacted Khaliq, he admitted that he had sent the false messages as a "prank." He also testified that he wanted to catch his girlfriend in a lie to see if she would choose him over the CEO because he had become "slightly jealous at that time."⁸ The police investigated the "prank" after receiving a complaint from the human resources department. Khaliq admitted to the investigating officer that he was responsible, but explained "I was playing a prank and I'm sorry about it." The police officer said: "People can take things the wrong way, so just be careful." No further legal action was taken. Khaliq then spoke to his girlfriend and apologized. Thereafter, they resumed their romantic relationship.

3. Khaliq Stated that He Had Committed No Prior Acts of Domestic Violence

Khaliq wrote to a deputy probation officer for the County of San Mateo that he had never had any violent incidents with any prior girlfriend. The written statement was included in a Probation Report prepared for an August 14, 2016 hearing in San Mateo County Superior Court. He stated that "I do not have a history of violence and have never struck anyone in my adult life, including any ex-girlfriend or my ex-wife." That statement was not true.

⁷ Khaliq testified that he was unaware that his girlfriend had applied for a job at the CEO's company when he wrote the first messages. He became aware shortly thereafter.

⁸ Khaliq reported that he and his girlfriend had played such pranks before. He provided another example of "pranking" where his girlfriend recorded a conversation between them, and then called S. W. to leave it on her voicemail. His girlfriend claimed it was an accident.

Twelve years before the interview with the probation officer, Y. C. Y.⁹ and Khaliq were in a relationship while students at UCLA. Y. C. Y. testified that they often got into arguments, and on one occasion, he threw plates and cups in her direction and they hit the wall behind her. But she also stated that she did not feel he was trying to hit her with these items. On another occasion, during an argument, he hit her while she was driving him to the train station, leaving a mark on her face and “tweaking” her eyeglasses. On a third occasion, when she could not reach him by telephone and was concerned about his well-being, she went to his house and climbed in through a window to check on him. She found him asleep on the couch and could not wake him. She then called a male friend who was in medical school to ask what to do. Khaliq then jumped off the couch and accused her of cheating on him. She attempted to leave and Khaliq grabbed her “neck area” and pushed her against the door. She screamed and exited the building. Police arrived, but she left the area without filing a police report. Khaliq and Y. C. Y. have not had any contact for 14 years since that incident.

C. CRIMINAL CONVICTION

In September 2015, the San Mateo County District Attorney’s Office charged Khaliq with violating Penal Code section 273.5, subdivision (a), for domestic violence against his girlfriend, with a special allegation under Penal Code section 12022.7, subdivision (e), for inflicting great bodily injury. After a preliminary hearing, the court dropped the special allegation. On November 23, Khaliq was charged with domestic violence and violation of section 236 for false imprisonment by violence, both felonies.

On June 14, 2016, a jury found Khaliq guilty of the domestic violence charge. But on January 9, 2017, the judge granted his motion for a new trial based on jury misconduct and set aside the verdict. On April 7, Khaliq filed a motion to reduce the felony charge of violating

⁹ Her initials are used to preserve her privacy.

Penal Code section 273.5, subdivision (a), to a misdemeanor. On August 22, knowing that the judge would reduce the charge to a misdemeanor, Khaliq pleaded no contest to a single count of the felony charge of domestic violence.¹⁰ The judge accepted his plea, but reduced it, and entered judgment as a misdemeanor violation. Khaliq was placed on probation for 36 months, with the first 18 months under supervision, and with conditions that included six months in jail.¹¹ His probation expires in August 2020.

III. KHALIQ COMMITTED ACTS OF MORAL TURPITUDE

In attorney disciplinary proceedings, “the record of [an attorney’s] conviction [is] conclusive evidence of guilt of the crime of which he or she has been convicted.” (Bus. & Prof. Code, § 6101, subd. (a); *In re Gross* (1983) 33 Cal.3d 561, 567.) Further, a “hearing judge may not reach conclusions, even if based on evidence found to be credible, that are inconsistent with the conclusive effect of [the attorney’s] conviction.” (*In the Matter of Respondent O* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 581, 588.) However, his conviction for domestic violence, which was not committed in the practice of law or against a client, does not establish moral turpitude per se. Any finding of moral turpitude must be made after considering the facts and circumstances of the criminal conviction.

After OCTC transmitted Khaliq’s misdemeanor conviction record to us, we referred this matter to the Hearing Department to determine whether the facts and circumstances surrounding his criminal conviction involve moral turpitude or other misconduct warranting discipline and, if so, the appropriate level of discipline. (See Bus. & Prof. Code, § 6102, subd. (e).) Finding that

¹⁰ Khaliq’s plea was entered pursuant to *People v. West* (1970) 3 Cal.3d 595 (courts may accept nolo contendere plea for lesser offense to avoid trial and provide defendant with certainty in outcome).

¹¹ Khaliq has completed all domestic violence training sessions with no absences, attended all scheduled court appearances and office visits, and paid all restitution, fines, and fees. As noted above, he served his jail time in the Sheriff’s Alternative Work Program.

the facts and circumstances surrounding Khaliq's conviction did involve moral turpitude, the hearing judge recommended disbarment. Khaliq appeals that finding.

Since moral turpitude "cannot be defined with precision" (*Baker v. State Bar* (1989) 49 Cal.3d 804, 815, fn. 3), we look to the California Supreme Court for guidance. It has found that: "[c]riminal conduct not committed in the practice of law or against a client reveals moral turpitude if it shows a deficiency in any character trait necessary for the practice of law (such as trustworthiness, honesty, fairness, candor, and fidelity to fiduciary duties) or if it involves such a serious breach of a duty owed to another or to society, or such a flagrant disrespect for the law or for societal norms, that knowledge of the attorney's conduct would be likely to undermine public confidence in and respect for the legal profession." (*In re Lesansky* (2001) 25 Cal.4th 11, 16.) We have also determined that moral turpitude "is measured by the morals of the day [citation] and may vary according to the community or the times. [Citation.]" (*In the Matter of Anderson* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 208, 214.)

OCTC requests that we find that a violation of Penal Code section 273.5, subdivision (a), is moral turpitude as a matter of law. But OCTC has waived this argument. On September 21, 2017, November 30, 2017, and February 12, 2018, OCTC filed a Transmittal of Records of Conviction of Attorney, Supplemental Transmittal of Records of Conviction of Attorney, and an Amended Transmittal of Records of Conviction of Attorney, respectively, in which it stated that a violation of Penal Code section 273.5, subdivision (a), may or may not involve moral turpitude. We have long considered the violation of this section as one which may or may not involve moral turpitude, and we decline to alter this long-standing position for this case. Given our disciplinary authority and OCTC's waiver, we find that a violation of Penal Code section 273.5, subdivision (a), may or may not involve moral turpitude.

Therefore, we must consider whether the facts and circumstances surrounding Khaliq's criminal conduct meet the Supreme Court's definition of moral turpitude. Clearly, the "prank" was not violent. Nor did it occur during the assault, but, rather, a month *earlier*. Thereafter, Khaliq and his girlfriend made up and resumed their romantic relationship. Despite these facts, the "prank" reflects similar issues of dominance and control as found in Khaliq's later violent assault on his girlfriend.¹² (See *In the Matter of Miller* (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 110, 115 ["wide ambit of facts surrounding the commission of a crime is appropriate to consider in a conviction referral proceeding"]; *In the Matter of Oheb* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920, 935 [in reviewing circumstances, court not restricted to examining elements of crime, but may look to whole course of respondent's conduct that reflects on fitness to practice law].)

We conclude that the actions Khaliq characterized as a "prank" and his omissions to the probation officer constituted a breach of a duty owed to others, displayed disrespect for the law and societal norms, and undermined public confidence in and respect for the legal profession. Khaliq exhibited violent behavior regarding a prior girlfriend. These actions also stemmed from the issues of control and dominance that are consistent with the later conduct in his assault. As such, we find that his past actions surrounding the assault did, indeed, involve moral turpitude.

¹² OCTC's expert witness defined domestic violence as a pattern of behavior involving many different actions, but the ultimate goal is "to assert power and control over the partner."

IV. AGGRAVATION AND MITIGATION

Standard 1.5 of the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct¹³ requires OCTC to establish aggravating circumstances by clear and convincing evidence.¹⁴ Khaliq bears the same burden to prove mitigation. (Std. 1.6.)

A. AGGRAVATION

1. Indifference (Std. 1.5(k))

The hearing judge found significant weight in aggravation for Khaliq's lack of insight or remorse. She considered many of his characterizations of the facts as attempts to shift blame for his own actions. She minimized his expressions of regret by simply concluding that he was "not truly remorseful."

But much of what the hearing judge referred to as lack of insight or remorse was nothing more than Khaliq putting on his defense to the disciplinary charges. It is true that, at the time and in the heat of a passionate, violent exchange, he attempted to deflect blame for his conduct by stating "Look what you made me do." Doing so was wrong, and reflects a failure to understand his own wrongdoing. But his overall reaction was far more sympathetic. Immediately after the episode, he attempted to help clean her face and get her to rest, and, during the two days thereafter, he reiterated his concern for her condition, his remorse for his behavior, and his affection for her.

The hearing judge also concluded that, in the disciplinary trial, Khaliq improperly asserted self-defense to the criminal conviction. Such a claim would be inappropriate in this proceeding if used to contradict the criminal court's finding. However, the actions the hearing judge described as self-defense arose out of what Khaliq contends was his girlfriend's squeezing

¹³ All further references to standards are to this source.

¹⁴ Clear and convincing evidence leaves no substantial doubt and is sufficiently strong to command the unhesitating assent of every reasonable mind. (*Conservatorship of Wendland* (2001) 26 Cal.4th 519, 552.)

his neck and her intentional or inadvertent knee to his groin immediately before the assault. Khaliq and his girlfriend agreed that Khaliq had never acted violently toward her in the past. Therefore, that evidence was relevant to explain his reflexive action which was inconsistent with his prior actions toward her, even if not allowed to challenge the criminal conviction.

The hearing judge also found that Khaliq downplayed the severity of his girlfriend's injuries, stating that he thought he only punched her once and she did not lose consciousness. The record reflects that neither Khaliq nor his girlfriend had a clear memory of the sequence of the violent episodes because they happened so fast. In fact, his girlfriend pieced together the nature of the assault by examining the injuries she received and the resulting swelling and bruising. As to the seriousness of the injury and his girlfriend's consciousness, or loss thereof, the superior court judge at the preliminary hearing found no "significant or substantial physical injury," "no headache or confusion," and insufficient evidence of loss of consciousness, and, therefore, found no great bodily injury.

The hearing judge found that Khaliq "falsely asserts that his girlfriend was granted immunity for her testimony in the criminal matter." It is true that the record does not reflect that a formal immunity agreement was entered into in exchange for his girlfriend's testimony. But she acknowledged at the preliminary hearing that she was concerned that she might be charged with a crime arising out of her prior actions when she head-butted Khaliq. She also admitted that the prosecutor assured her that, because she testified in Khaliq's case, she would not be so charged. In common parlance, this would be tantamount to an immunity agreement, and, therefore, Khaliq's statement was not false.

Finally, we disagree with the hearing judge's finding that the "prank" was further evidence of Khaliq's lack of insight or remorse in aggravation. First of all, it was a month *before* the assault. Further, since we are considering the "prank" as an act supporting the moral

turpitude finding, we do not consider the same facts again as an aggravating circumstance. (*In the Matter of Sampson* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 119 [inappropriate to use same misconduct used to support moral turpitude charge as additional aggravation].)

We disagree that significant weight should be given to lack of insight or remorse. We find that Khaliq's initial isolated assignment of blame to his girlfriend for his actions made during the altercation merits only minimal weight.

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

Khaliq's girlfriend suffered significant financial and emotional harm along with the physical injuries she received. She purchased "professional-grade" makeup to hide the bruising. She stated that she did not attend work for "three to four" weeks and received therapy for a period of time after the assault. We assign serious weight to this as an aggravating factor.

B. MITIGATION

1. No Prior Record of Discipline (Std. 1.6(a))

Khaliq was admitted to the practice of law in California in 2004, and has no prior record of discipline. Since we do not find aggravation for multiple acts and only minimal aggravation for lack of insight or remorse, we do not reduce the weight given to this mitigating factor. His 10½ years of discipline-free practice is entitled to substantial weight in mitigation. (*In the Matter of Yee* (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 330, 335 [significant weight in mitigation credit for 10½ years of discipline-free practice]; *Hawes v. State Bar* (1990) 51 Cal.3d 587, 596 [discipline-free record of over 10 years entitled to significant weight in mitigation].)

2. Good Character (Std. 1.6(f))

The hearing judge found that Khaliq's evidence of good character consisted of three witnesses (including two attorneys) attesting to his ethics, honesty, trustworthiness, professional reputation, community service, and pro bono work. But she found that these witnesses do not

constitute a wide range of references (std. 1.6(f); *In the Matter of Myrdall* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 363, 387 [testimony of three attorneys and three clients not broad range of references]). The judge also found that the witnesses were either not familiar with the details of Khaliq's misconduct or erroneously believed that he was assaulted, his girlfriend's injuries were not serious, or the injuries resulted from rough sexual foreplay (*In re Aquino* (1989) 49 Cal.3d 1122, 1131 [testimony of witnesses unaware of full extent of misconduct not given significant mitigating weight]). As a result, she gave this evidence only limited weight.

But the hearing judge neglected to consider the character evidence presented by Khaliq's father, mother, brothers, and sister, who all gave detailed information about Khaliq's upbringing and his acts of honesty and charity throughout his life. They all provided declarations for his criminal case that were also admitted as good character declarations in this case. All were aware of the circumstance of Khaliq's misconduct. Although offered by family members, any bias they may have because of their familial connection should not be disqualifying, but rather relevant to the weight given to the evidence. (*In the Matter of Davis* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576, 592 [testimony of acquaintances, neighbors, friends, associates, employers, and family members on issue of good character, with reference to their observation of respondent's daily conduct and mode of living, entitled to great weight].)

In addition, the hearing judge failed to consider the declaration of Dr. Wong, Khaliq's psychiatrist, about his progress in therapy. The doctor provided his observations regarding Khaliq's lack of a propensity for violence or harm to others, his empathy and remorse, and his willingness to undergo treatment and therapy to improve his emotional well-being and relationships.

Finally, the hearing judge found that "much" of S. W.'s testimony lacked credibility. It is unclear from her decision which portions of the testimony the judge did not find credible, but she

gave the following example: “the court notes that [S. W.] avoided directly responding to a question as to whether two black eyes was a significant injury, testifying it was more of an embarrassment, as it was on the face.” In fact, the superior court preliminary hearing judge also found that the injuries did not constitute “significant or substantial physical injury” in her determination that there was no great bodily injury under Penal Code section 12022.7.

Among other things, S. W. testified that Khaliq never exhibited any violent tendencies while they were dating. She also commented on Khaliq’s care of her mother, who suffered from depression. S. W. also remarked on the assistance and support Khaliq gave his family, especially his sister, whose husband had passed away while she was in her twenties with two young children.

We find that this factor merits substantial mitigating weight.

3. Remorse and Recognition of Wrongdoing (Std. 1.6(g))

Prompt objective steps demonstrating spontaneous remorse and recognition of wrongdoing are a mitigating factor. Khaliq expressed remorse immediately after the incident. Multiple text messages reflected his remorse, and he apologized for his behavior. He repeated his apologies to his girlfriend to the probation officer, saying he felt bad for hitting her and causing her pain. While he commented that he felt that his girlfriend was “seeking revenge” against him, he noted that he is “taking responsibility” for his actions. In recommending his sentence, the probation officer considered the fact that he was “remorseful and regretful of his actions.”

We give moderate weight to Khaliq’s expressions of remorse and his recognition of wrongdoing.

4. Community Service/Pro Bono Work

Khaliq’s pro bono activities include volunteer work with the San Francisco Center for Gun Violence Prevention. He has also served the community as a member of the Board of Governors of the University of San Francisco Law School and has been involved in the Palo Alto

Bar Association Patent Group. Khaliq also received complimentary comments about his personal character in a Certificate of Service earned after he externed as a law student for Judge James Ware, United States District Judge for the Northern District of California.

We assign moderate mitigating weight to this factor. (*Calvert v. State Bar* (1991) 54 Cal.3d 765, 785 [community service is mitigating factor entitled to “considerable weight”].)

5. Lack of Client Harm (Std. 1.6(c))

We agree with the hearing judge that Khaliq did not harm a client by his misconduct. This factor is entitled to consideration in mitigation, but warrants only minimal weight.

V. DISCIPLINE

A. APPLICABLE LAW

We begin our disciplinary analysis by acknowledging that our role is not to punish Khaliq for his criminal conduct, but to recommend professional discipline. (*In re Brown* (1995) 12 Cal.4th 205, 217 [“aim of attorney discipline is not punishment or retribution; rather, attorney discipline is imposed to protect the public, to promote confidence in the legal system, and to maintain high professional standards”]; std. 1.1.) We do so by following the standards whenever possible and balancing all relevant factors, including mitigating and aggravating circumstances, on a case-by-case basis to ensure that the discipline imposed is consistent with its purpose. (*In re Young* (1989) 49 Cal.3d 257, 266.)

Standard 2.11(c) states that disbarment or actual suspension is appropriate for criminal convictions involving moral turpitude. OCTC submits that disbarment should be affirmed. Khaliq seeks a lesser discipline of six months’ actual suspension.

Our review of the relevant case law regarding attorneys engaged in assaultive behavior reveals a broad range of discipline depending on the cases' facts and circumstances.¹⁵ Our review also recognizes that in the past, such cases have generally not been treated with high levels of discipline. The hearing judge correctly recognized that many cases were decided decades ago when public attention was not so clearly focused on the seriousness of violence involving partners in intimate relationships.

We also acknowledge that prior discipline in domestic violence cases often has not reflected the changes in society and the current recognition of the seriousness of domestic violence. Many earlier cases resolved such matters with low levels of discipline, including minimal or no suspension. We agree with the hearing judge that it is important to reevaluate the appropriate discipline by considering current societal values and changing mores.

But we disagree that the facts and circumstances of this misdemeanor conviction warrant disbarment. We come to this conclusion after examining our disciplinary authority on domestic violence, our disciplinary authority on serious misconduct that is accompanied by aggravating factors, and other states' disciplinary authority on domestic violence.

¹⁵ The hearing judge cited *In re Hickey* (1990) 50 Cal.3d 571 [attorney culpable of improper withdrawal and convicted of carrying concealed weapon where facts and circumstances surrounding violation revealed assaultive behavior received 30-day actual suspension]; *In the Matter of Stewart* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 52 [attorney convicted of misdemeanor battery on police officer received 60-day actual suspension]; *In re Otto* (1989) 48 Cal.3d 970 [attorney convicted of felony violations of assault by means likely to produce great bodily injury and infliction of corporal punishment on cohabitant of opposite sex resulting in traumatic condition resulted in six-month actual suspension]; and *In re Larkin* (1989) 48 Cal.3d 236 [attorney's misdemeanor convictions of assault with deadly weapon and conspiracy to commit such crime resulted in one-year actual suspension]. One case from the same time period that the hearing judge references, *In re Mostman* (1989) 47 Cal.3d 725, reflects a more severe discipline but involves conduct very different from that present here. Mostman was recorded in phone calls with a "hit-man" discussing a request to cause bodily injury to a former client who was, himself, a "mob hit-man." He was convicted of felony solicitation to commit serious assault on his former client, a crime that involved moral turpitude. We recommended 18 months' actual suspension. The Supreme Court increased that suspension to two-years' actual suspension, concluding that disbarment was not appropriate given Mostman's extensive mitigation.

1. Disbarment Is Excessive Discipline for Khaliq's Misconduct

Our research has revealed only two published California cases where domestic abuse has resulted in disbarment. Notably, each resulted in a felony conviction that reflected substantially more serious misconduct than in the present matter. In one case, an attorney was convicted of first-degree murder for shooting both his wife and her lover (*In re Kirchke* (1976) 16 Cal.3d 902). The other case, cited by the hearing judge, involved an attorney and his wife who began having marital problems because of her extramarital affair. The couple argued, and after one episode, the attorney became physically violent, throwing his wife down on a couch and striking her repeatedly. Then, after the attorney had been drinking alcohol and using cocaine while tracking his wife's movements at her office, he told her that he and her child were leaving her. He went home, hoping she would come after him. At home, he concealed a rifle on the bed, and continued using cocaine. When his wife arrived, they argued and he then shot her approximately 10 times with the rifle. The attorney was convicted of voluntary manslaughter (*In re Nevill* (1985) 39 Cal.3d 729). It is evident that the facts of these two disbarment cases differ dramatically from the facts here.

Both those felony cases involved gun violence that resulted in the death of the victims. Here, Khaliq was convicted of a misdemeanor, and his misconduct did not have such a result. In light of these differences, we distinguish these cases and find disbarment too severe.

Given the limited guidance in our domestic violence cases, we turn to other disciplinary authority in which the facts and circumstances surrounding criminal convictions involved moral turpitude and warranted serious discipline.

2. Our Opinions in Other Areas of Law Provide Guidance

At the oral argument in this matter, OCTC referred to two of our opinions in support of its argument for disbarment in this case. In *In the Matter of Peters* (Review Dept. January 2018)

WL 583118, Peters was disbarred because the facts and circumstances surrounding her felony conviction of vehicular manslaughter while intoxicated involved moral turpitude. Peters abused prescription drugs on and off for several years leading to the collision. On the day of the collision, she had several drugs in her system, which impaired her ability to drive. She drove erratically, struck a car, and caused death and grave injury. After the collision, she failed to tell a police officer how many pills she had taken. Two years later, she told a probation officer that she was not impaired when the collision occurred, and failed to disclose that she had been abusing prescription drugs for months. We found that her conduct revealed deficiencies in her honesty and candor, represented a serious breach of her duty to society, and demonstrated a flagrant disrespect for the law such that knowledge of her conduct would undermine public confidence in and respect for the profession. The facts in *In the Matter of Peters* differ from our facts. Khaliq was not convicted of a felony, and his criminal act did not cause death or great bodily injury.

Also referred to by OCTC was our case of *In the Matter of Guillory* (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 402. Guillory received a two-year actual suspension because the facts and circumstances surrounding his four misdemeanor convictions of driving under the influence (DUI) involved moral turpitude. Prior to his convictions for DUI, Guillory was convicted of a “wet reckless” misdemeanor following an alcohol-related driving incident in which his cousin died. Years later, Guillory worked as an assistant deputy district attorney when he was arrested for his four DUI charges. For each of those incidents, his blood alcohol concentration was well above the legal limit, and he attempted to use his position in the District Attorney’s office to avoid arrest. For his two most recent arrests for DUI, he drove with a suspended license, in violation of his criminal probation for his first DUI conviction. In his third arrest, he initially lied to police about his alcohol intake, saying he had not consumed any alcohol. Fortunately, no

one was harmed as a result of his reckless behavior. We found that his repeated alcohol-related misconduct demonstrated “a disturbing lack of respect for the integrity of the legal system and the profession” and showed “disdain for the law and for societal norms.” (*Id.* at p. 408.)

The facts in *Guillory* are similar to our facts. Like *Guillory*, Khaliq received a misdemeanor conviction. And like *Guillory*, the facts and circumstances surrounding Khaliq’s conviction involve moral turpitude. Khaliq pretended in text messages to be a CEO to catch his girlfriend in a lie, and did not truthfully tell a deputy probation officer about violent incidents twelve years earlier with prior girlfriends. His actions are analogous to *Guillory*’s misleading police about his alcohol intake and his attempts to use his position as a deputy district attorney to avoid arrest. Because *Guillory* received a misdemeanor conviction that had facts and circumstances involving moral turpitude, we find his case to be persuasive authority.

3. Disciplinary Authority in Other Jurisdictions Provides Guidance

Our analysis was also informed by other states’ recent disciplinary cases regarding convictions of domestic violence, which we view as persuasive authority.

In *In the Matter of Peter H. Jacoby* (2011) 86 A.D.3d 330 [926 N.Y.S.2d 480], Jacoby pleaded guilty to the felony of unlawful wounding after he struck and restrained his wife, causing her physical injuries that required medical attention. There were various factors in mitigation: the attorney’s long and exemplary work record and good character references; a related dysfunctional marital relationship; the wife’s initiation of the altercation; the attorney’s long-treated psychological condition; the confinement of the aggression to his personal life; and the substantial criminal sanctions already imposed. In aggravation, the court found that Jacoby had a history of domestic violence with his wife in 2005 and 2007, with one instance resulting in a prior conviction for the crime of simple assault. Based on those findings, the court suspended Jacoby from the practice of law for three years.

The facts and circumstances in *Jacoby* are similar, but more egregious than those before us. *Jacoby* was convicted of a felony and had a history of domestic violence on two prior occasions, one of which resulted in a conviction. Here, Khaliq was convicted of a misdemeanor and has no prior convictions of similar misconduct.

In *In Re Zulantz* (2012) 93 A.D.3d 77 [939 N.Y.S.2d 338], Zulantz pleaded guilty to a misdemeanor assault after he repeatedly threw his girlfriend to the floor of her apartment and slapped her about the face, causing physical injuries that required medical attention. During the assault, he called the victim derogatory names such as “slut” and “whore.” In her presence, he also methodically destroyed or damaged various items of her personal property, including a Cartier watch that he smashed with a hammer, a purse that he filled with water, a painting that he punctured, and a couch that he damaged with water and oil. His actions in assaulting his girlfriend and destroying or damaging property occurred over a period of at least 45 minutes. Citing *Jacoby*, above, and recognizing that the behavior occurred over a prolonged period of time, the court concluded that Zulantz “engaged in a calculated pattern of cruelty” that was not caused by a spontaneous psychological condition.¹⁶ As such, the court suspended Zulantz from the practice of law for three years.

Again, though instructive, the facts and circumstances in *Zulantz* are more egregious than those before us. Like Zulantz, Khaliq was convicted of a misdemeanor assault. However, unlike Zulantz, Khaliq did not engage in a calculated pattern of cruelty. He did not inflict serious bodily injuries upon his girlfriend, nor did he demean her by calling her names during the assault. He did not destroy or damage her property, and his assault did not occur over a prolonged period of time.

¹⁶ The attorneys in both *Jacoby* and *Zulantz* raised the defense that their actions were a result of “intermittent explosive disorder.”

In *Ohio State Bar Association v. Mason* (2017) 152 Ohio St.3d 228 [94 N.E.3d 556], Mason, who at the time was a judge,¹⁷ pleaded guilty to attempted felonious assault and domestic violence, a misdemeanor, after he assaulted his wife in their car in front of their children. During the assault, Mason struck his wife repeatedly in the head; hit her head against the armrest, the dashboard, and the window of the passenger door; bit her on her face; and grabbed her hair. When she attempted to escape the moving car, she fell onto the road. Mason got out and began to strike her as she lay there. He then returned to the vehicle and drove away, leaving her behind. As a result of the attack, Mason's wife sustained severe physical harm to her head, face, and neck, including an orbital blowout fracture under her left eye. She required surgery and the children received counseling as a result of witnessing the assault.

In aggravation, his victims were vulnerable and suffered harm; he failed to adequately explain the conduct that is the basis for the violation; he failed to provide assurances that the conduct will not happen again; and he did not fully engage in the redemptive process. In mitigation, he had no prior record; he demonstrated a cooperative attitude toward the disciplinary process; he presented evidence of good character; he was under stress at the time of the assault because of two floods of his house, his marital problems, and medical problems arising from chest pains; and he was on the way home from his aunt's funeral. The court imposed an indefinite suspension on Mason with no credit for time served on the interim felony suspension.¹⁸

Of these three out-of-state cases, *Mason* provides the most guidance. Both *Jacoby* and *Zulandt* involved more serious misconduct with more aggravation. Like *Mason*, Khaliq's assault on his girlfriend was not premeditated or part of a pattern of violent behavior. Unlike *Mason*, Khaliq's actions were not as violent or prolonged, and harmed only his girlfriend. Khaliq's

¹⁷ In Ohio, both attorneys and judges are disciplined by the Ohio State Bar Association.

¹⁸ In Ohio, an indefinite suspension is a minimum of two years. At that point, the attorney may apply for reinstatement. (Rule V, Section 25, Supreme Court Rules for the Government of the Bar of Ohio.)

misconduct was surrounded by dishonesty, but that distinction is overwhelmingly outweighed by the level of prolonged violence Mason inflicted on his wife in front of his children.

B. CONCLUSION

For many reasons, Khaliq's actions fall below the threshold of disbarment, as recommended by the hearing judge. First, there are no California cases that compel this court to find that disbarment is the appropriate discipline in this case. His underlying crime was a misdemeanor with surrounding circumstances involving moral turpitude. In *Guillory*, we found that a two-year suspension rather than disbarment was appropriate for a misdemeanor surrounded by moral turpitude.

Unlike the out-of-state cases cited above, there was a finding of no great bodily injury. His actions were not premeditated or a pattern, nor were they cruel in the manner that either *Zulandt* or *Mason* represented. Unlike in *Mason*, Khaliq's assault directly harmed no one other than the victim. And Khaliq has no prior criminal record.

The three-year suspensions in *Jacoby* and *Zulandt* are also too severe and reflect the fact that *Jacoby* was convicted of a felony and had a prior discipline, and *Zulandt* was found to have acted in a cruel manner over a protracted period of time. Closest to the proper suspension for Khaliq is that given to *Mason*. Khaliq's misconduct was surrounded by facts reflecting a disregard of the rights and reputations of others, including his girlfriend and the CEO, but *Mason's* actions were more violent and prolonged.

Our disciplinary recommendation must strike a balance between today's increasing abhorrence of domestic violence, and the laws and cases that govern our actions. Khaliq's assault and his "prank" clearly harmed his girlfriend. Additionally, his misconduct impugns the integrity of the legal profession, undermining the public's confidence in and respect for the legal system. We view disbarment as too severe under this case's facts and circumstances. But in

light of the nature of his violent conduct and his actions associated with the “prank” involving the CEO, we consider a lengthy actual suspension to be appropriate. We recommend that Khaliq receive a two-year actual suspension, continuing until he presents proof at a formal hearing of his rehabilitation and fitness to practice law, pursuant to standard 1.2(c)(1).

C. RESPONSE TO CONCURRING AND DISSENTING OPINION

We respectfully disagree with our colleague’s Concurring and Dissenting Opinion. She seeks greater discipline—three years’ versus two years’ actual suspension—primarily because elements of dishonesty were found in the facts and circumstances, some of which *preceded* Khaliq’s misconduct. She notes that his failure to report to a probation officer an incident that occurred 12 years earlier while he was a college student, and his participation in a jealous “prank” played on his girlfriend, together constitute reason to increase the discipline by a full year of actual suspension. She further discounts the holdings in *Jacoby*, *Zulandt*, and *Mason*, *supra*, as not guiding because none of the attorneys engaged in dishonest acts.

Clearly, honesty is a fundamental requirement of the legal profession. “Indeed, an attorney who intentionally deceives his client is culpable of an act of moral turpitude [citations].” (*Gold v. State Bar* (1989) 49 Cal.3d 908 [30-day suspension for intentional misrepresentation to client that Gold settled her case and for fraudulently documenting a settlement distribution authorization calculating his fees].) Similarly, where a lawyer is dishonest to others who are not clients, he still may be disciplined for his misconduct. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103 [one-year actual suspension for Chadwick’s illegal purchase of stock options, his agreement to lie to Securities and Exchange Commission (SEC), and his lies under oath to SEC on two occasions and again to SEC employee on third occasion].) In both of the above cases, dishonesty was the essence of the misconduct and yet it did not boost the discipline upward in the manner proposed by our colleague. (See also *In the Matter of Dahlz* (Review Dept. 2001) 4 Cal. State

Bar Ct. Rptr. 269 [attorney who, among other charges, lied to opposing counsel, fabricated entry into client's telephone log and introduced it into evidence, and made false representations to State Bar investigator received one-year actual suspension].)

The majority's recommended two-year actual suspension, continuing until Khaliq proves his rehabilitation, fitness to practice, and learning and ability in the general law, is appropriate and sufficient to protect the public and the courts, and will maintain the public's confidence in the legal profession.

VI. RECOMMENDATION

For the foregoing reasons, we recommend that Imran A. Khaliq be suspended for two years, that execution of that suspension be stayed, and that he be placed on probation for three years with the following conditions:

1. He must be suspended from the practice of law for a minimum of the first two years of his probation and continuing until he provides proof to the State Bar Court of his rehabilitation, fitness to practice, and learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).) However, we recommend that he be given credit toward the recommended period of actual suspension for the period of his (1) inactive enrollment under Business and Professions Code section 6007, subdivision (c)(4), between August 30, 2018, and August 2, 2019, and (2) interim suspension under Business and Professions Code section 6102, subdivision (e), commencing on August 2, 2019.
2. He must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all of the conditions of his probation.
3. Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, he must (1) read the California Rules of Professional Conduct (Rules of Professional Conduct) and Business and Professions Code sections 6067, 6068, and 6103 through 6126, and (2) provide a declaration, under penalty of perjury, attesting to his compliance with this requirement, to the State Bar's Office of Probation in Los Angeles (Office of Probation) with his first quarterly report.
4. Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, he must make certain that the State Bar Attorney Regulation and Consumer Resources Office (ARCR) has his current office address, email address, and telephone number. If he does not maintain an office, he must provide the mailing address, email address, and telephone number to be used for State Bar purposes. He must report, in

writing, any change in the above information to ARCR, within 10 days after such change, in the manner required by that office.

5. Within 15 days after the effective date of the Supreme Court order imposing discipline in this matter, he must schedule a meeting with his assigned probation case specialist to discuss the terms and conditions of his discipline and, within 30 days after the effective date of the court's order, must participate in such meeting. Unless otherwise instructed by the Office of Probation, he may meet with the probation case specialist in person or by telephone. During the probation period, he must promptly meet with representatives of the Office of Probation as requested by it and, subject to the assertion of applicable privileges, must fully, promptly, and truthfully answer any inquiries by it and provide to it any other information requested by it.
6. During his probation period, the State Bar Court retains jurisdiction over him to address issues concerning compliance with probation conditions. During this period, he must appear before the State Bar Court as required by the court or by the Office of Probation after written notice mailed to his official membership address, as provided above. Subject to the assertion of applicable privileges, he must fully, promptly, and truthfully answer any inquiries by the court and must provide any other information the court requests.
7. Quarterly and Final Reports
 - a. **Deadlines for Reports.** He must submit written quarterly reports to the Office of Probation no later than each January 10 (covering October 1 through December 31 of the prior year), April 10 (covering January 1 through March 31), July 10 (covering April 1 through June 30), and October 10 (covering July 1 through September 30) within the period of probation. If the first report would cover less than 30 days, that report must be submitted on the next quarter date and cover the extended deadline. In addition to all quarterly reports, he must submit a final report no earlier than 10 days before the last day of the probation period and no later than the last day of the probation period.
 - b. **Contents of Reports.** He must answer, under penalty of perjury, all inquiries contained in the quarterly report form provided by the Office of Probation, including stating whether he has complied with the State Bar Act and the Rules of Professional Conduct during the applicable quarter or period. All reports must be: (1) submitted on the form provided by the Office of Probation; (2) signed and dated after the completion of the period for which the report is being submitted (except for the final report); (3) filled out completely and signed under penalty of perjury; and (4) submitted to the Office of Probation on or before each report's due date.
 - c. **Submission of Reports.** All reports must be submitted by: (1) fax or email to the Office of Probation; (2) personal delivery to the Office of Probation; (3) certified mail, return receipt requested, to the Office of Probation (postmarked on or before the due date); or (4) other tracked-service provider, such as Federal Express or United Parcel Service, etc. (physically delivered to such provider on or before the due date).

d. Proof of Compliance. He is directed to maintain proof of his compliance with the above requirements for each such report for a minimum of one year after either the period of probation or the period of his actual suspension has ended, whichever is longer. He is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.

8. Within one year after the effective date of the Supreme Court order imposing discipline in this matter, he must submit to the Office of Probation satisfactory evidence of completion of the State Bar Ethics School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and he will not receive MCLE credit for attending this session. If he provides satisfactory evidence of completion of the Ethics School after the date of this Opinion but before the effective date of the Supreme Court's order in this matter, he will nonetheless receive credit for such evidence toward his duty to comply with this condition.
9. He must comply with all probation conditions imposed in the underlying criminal matter and must report such compliance under penalty of perjury in all quarterly and final reports submitted to the Office of Probation covering any portion of the period of the criminal probation. In each quarterly and final report, if he has an assigned criminal probation officer, he must provide the name and current contact information for that criminal probation officer. If the criminal probation was successfully completed during the period covered by a quarterly or final report, that fact must be reported by him in such report and satisfactory evidence of such fact must be provided with it. If, at any time before or during the period of probation, his criminal probation is revoked, he is sanctioned by the criminal court, or his status is otherwise changed due to any alleged violation of the criminal probation conditions by him, he must submit the criminal court records regarding any such action with his next quarterly or final report.

VII. PROFESSIONAL RESPONSIBILITY EXAMINATION

We further recommend that Khaliq be ordered to take and pass the Multistate Professional Responsibility Examination administered by the National Conference of Bar Examiners during the period of his actual suspension in this matter and to provide satisfactory proof of such passage to the State Bar's Office of Probation within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).) If he provides satisfactory evidence of the taking and passage of the above examination after the date of this Opinion but before the effective date of the Supreme Court's order in this matter, he will nonetheless receive credit for such evidence toward his duty to comply with this requirement.

VIII. RULE 9.20

We further recommend that Khaliq be ordered to comply with the requirements of California Rules of Court, rule 9.20, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order imposing discipline in this matter.¹⁹ Failure to do so may result in disbarment or suspension.

IX. COSTS

We further recommend that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. Unless the time for payment of discipline costs is extended pursuant to subdivision (c) of section 6086.10, costs assessed against an attorney who is actually suspended or disbarred must be paid as a condition of reinstatement or return to active status.

X. ORDER

Finally, because we reject the hearing judge's disbarment recommendation, we order that Imran A. Khaliq's inactive enrollment under Business and Professions Code section 6007, subdivision (c)(4), effective August 30, 2018, be vacated immediately.

In addition, because we find that Khaliq has been convicted of a misdemeanor violation of Penal Code section 273.5, subdivision (a), which involved moral turpitude, we order pursuant

¹⁹ For purposes of compliance with rule 9.20(a), the operative date for identification of "clients being represented in pending matters" and others to be notified is the filing date of the Supreme Court order, not any later "effective" date of the order. (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45.) Further, Khaliq is required to file a rule 9.20(c) affidavit even if he has no clients to notify on the date the Supreme Court filed its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or contempt, an attorney's failure to comply with rule 9.20 is, inter alia, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)

to Business and Professions Code section 6102, subdivision (e), that Khaliq be suspended from the practice of law effective August 2, 2019. Accordingly, it is further ordered that respondent comply with California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after August 2, 2019.

This order does not affect Khaliq's ineligibility to practice law that has resulted or that may hereafter result from any other cause.

HONN, J.

I CONCUR:

McGILL, J.

CONCURRING AND DISSENTING OPINION OF PURCELL, P. J.:

While the majority and I agree on the facts, we differ in how we view them. I concur that Khaliq should not be disbarred considering that his criminal conviction for domestic violence is a misdemeanor. I disagree with my colleagues, however, that a two-year actual suspension is adequate discipline. Instead, I recommend three years' actual suspension given Khaliq's conviction, the physical and emotional harm he inflicted on his victim-girlfriend and, most importantly, his dishonesty.

To begin, I believe that cases cited by the majority do not necessarily support a two-year actual suspension. In *In the Matter of Guillory, supra*, 5 Cal. State Bar Ct. Rptr. 402, the attorney received such a suspension for multiple alcohol-related misdemeanor convictions, including one where, unfortunately, his cousin died. Guillory also attempted to use his position as a Deputy District Attorney to avoid arrest and lied to police about his alcohol intake. But, unlike Khaliq, Guillory did not intentionally inflict physical and emotional injuries on another person. Khaliq slapped and punched his girlfriend so hard she fell to the ground, causing two black eyes, facial contusions, a swollen face and jaw, and a head laceration. Her facial bruises

remained visible 15 days after the attack. At the time of the disciplinary trial, she was still experiencing nightmares and was in therapy. As to the three out-of-state cases the majority cites, I do not find them guiding. Though the domestic violence in each matter was more serious than Khaliq's, none of the attorneys engaged in dishonest acts.

Khaliq's dishonesty is central, in my mind, to assessing the proper discipline to recommend. He impersonated the CEO of the company where his girlfriend sought employment by sending messages that asked her to meet at his home for an interview and to wear something sexy. At the same time Khaliq was impersonating the CEO, he messaged his girlfriend as himself to schedule a date that would conflict with the phony CEO interview to see whom his girlfriend would choose. When she inquired if Khaliq was the CEO, he lied about his deception. Like the hearing judge, I conclude that Khaliq's impersonation was not a "prank," as he characterized it, but a deceitful way to manipulate his girlfriend. Finally, Khaliq lied to his probation officer in his own criminal conviction case by claiming that he did not have a history of violence and had never struck anyone in his adult life. This was false. Twelve years earlier, he assaulted a former girlfriend on two occasions.

My concern is Khaliq's violence coupled with his apparent ease in lying. In the practice of law, honesty is absolutely fundamental. Without it, "the profession is worse than valueless in the place it holds in the administration of justice." (*Tatlow v. State Bar* (1936) 5 Cal.2d 520, 524; see *Kim v. Westmoore Partners, Inc.* (2011) 201 Cal.App.4th 267, 292 ["It is critical to both the bench and the bar that we be able to rely on the honesty of counsel"].) Every attorney is an officer of the court. The term carries with it an assumption of honor and integrity that must not lose its significance. (*Id.*) Given this high standard for truthfulness that is expected of attorneys, Khaliq's disturbing and repeated dishonesty calls into question his fitness to practice law (*Rhodes v. State Bar* (1989) 49 Cal.3d 50, 60 [fundamental rule of legal ethics is that of common

honesty]), and reflects poorly on his commitment to honesty. Moreover, it exposes the need for a lengthy actual suspension to afford Khaliq the opportunity and time to reform, which will also serve to fulfill the goals of attorney discipline. (Std. 1.1 [protection of public, courts, and legal profession; maintenance of high professional standards; and preservation of public confidence in the legal profession].)