

<p>Counsel for the State Bar THE STATE BAR OF CALIFORNIA OFFICE OF THE CHIEF TRIAL COUNSEL ENFORCEMENT ELI MORGENSTERN, No. 190560 1149 South Hill Street, 10th Fl. Los Angeles, CA 90015-2288 Telephone: (213) 765-1334</p>	<p>Case number(s) 00-0-12083-RAH</p> <p>kwiktag® 031 975 145</p> 	<p>(for Court's use)</p> <p>FILED <i>MS</i> APR - 8 2004</p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> <p>NOT FOR PUBLICATION</p>
<p>Counsel for Respondent</p> <p>JOSE R. PAZ In Pro Per 4908 Pennsylvannia Avenue La Cresenta, CA 91214</p>	<p>Submitted to <input checked="" type="checkbox"/> assigned judge <input type="checkbox"/> settlement judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>REPROVAL <input checked="" type="checkbox"/> PRIVATE <input type="checkbox"/> PUBLIC</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of</p> <p>JOSE R. PAZ</p> <p>Bar # 152828</p> <p>A Member of the State Bar of California (Respondent)</p>		

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted June 6, 1991 (date)
- (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 and order consist of 10 pages.
- (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) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
 - costs added to membership fee for calendar year following effective date of discipline (public reproof)
 - case ineligible for costs (private reproof)
 - costs to be paid in equal amounts for the following membership years:
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
 - costs waived in part as set forth under "Partial Waiver of Costs"
 - costs entirely waived

Note: All information required by this form and any additional information which cannot be provided in the space provided, shall be set forth in the text component of this stipulation under specific headings, i.e. "Facts," "Dismissals," "Conclusions of Law."

(8) The parties understand the

- (a) A private reproof imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
- (b) A private reproof imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
- (c) A public reproof imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

(1) Prior record of discipline [see standard 1.2(f)]

(a) State Bar Court case # of prior case _____

(b) Date prior discipline effective _____

(c) Rules of Professional Conduct/ State Bar Act violations: _____

(d) degree of prior discipline _____

(e) If Respondent has two or more incidents of prior discipline, use space provided below or under "Prior Discipline".

(2) Dishonesty: Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.

(3) 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.

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

- (5) Indifference: Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) Lack of Cooperation: Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) Multiple/Pattern of Misconduct: Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8) No aggravating circumstances are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standard 1.2(e)]. 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 deemed serious~~
- (2) No Harm: Respondent did not harm the client or person who was the object of the misconduct.
- (3) Candor/Cooperation: Respondent displayed spontaneous candor and cooperation ~~to the victims of his/her misconduct~~ and to the State Bar during disciplinary investigation and proceedings.
- (4) Remorse: Respondent promptly took objective steps spontaneously demonstrating 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 in good faith.
- (8) Emotional/Physical Difficulties: At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical 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 Respondent no longer suffers from such difficulties or disabilities.
- (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 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: Consider the 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:

D. Discipline:

- (1) Private reproof (check applicable conditions, if any, below)
- (a) Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).
- (b) Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).
- or
- (2) Public reproof (check applicable conditions, if any, below)

E. Conditions Attached to Reproval:

- (1) Respondent shall comply with the conditions attached to the reproof for a period of One (1) year
- (2) During the condition period attached to the reproof, Respondent shall comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) Within ten (10) days of any change, Respondent shall report to the Membership Records Office and to the Probation Unit, 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) Respondent shall submit written quarterly reports to the Probation Unit on each January 10, April 10, July 10, and October 10 of the condition period attached to the reproof. Under penalty of perjury, respondent shall state whether respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of the reproof during the preceding calendar quarter. If the first report would cover less than thirty (30) days, that report shall be submitted on the next following quarter date and cover the extended period.

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

- (5) Respondent shall be assigned a probation monitor. Respondent shall 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 shall furnish such reports as may be requested, in addition to quarterly reports required to be submitted to the Probation Unit. Respondent shall cooperate fully with the monitor.
- (6) Subject to assertion of applicable privileges, Respondent shall answer fully, promptly and truthfully any inquiries of the Probation Unit of the Office of the Chief Trial Counsel and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the conditions attached to the reproval.
- (7) Within one (1) year of the effective date of the discipline herein, respondent shall provide to the Probation Unit satisfactory proof of attendance of the Ethics School and passage of the test given at the end of that session.
- No Ethics School ordered.
- (8) Respondent shall comply with all conditions of probation imposed in the underlying criminal matter and shall so declare under penalty of perjury in conjunction with any quarterly report required to be filed with the Probation Unit.
- (9) Respondent shall provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Probation Unit of the Office of the Chief Trial Counsel within one year of the effective date of the reproval.
- No MPRE ordered.
- (10) The following conditions are attached hereto and incorporated:
- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |
- (11) Other conditions negotiated by the parties:

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: JOSE R. PAZ

CASE NUMBER(S): 00-O-12083

FACTS AND CONCLUSIONS OF LAW.

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

Facts

1. In or about November 1997, a personal injury complaint was filed on behalf of Patricia Joeckel ("Joeckel") in the Los Angeles Municipal Court entitled, *Patricia Joeckel v. Ibrahim Moussa*, case no. 97T05746 ("the Joeckel civil matter").

2. In or about April 1999, Joeckel employed the services of Michael V. Severo ("Severo") of the law firm of the Law Offices of Michael V. Severo ("the Firm"), to assume the handling of the Joeckel civil matter. On or about April 5, 1999, Severo filed a substitution of attorney in the matter.

3. At or about this time, Respondent was employed by Severo and was assigned to handle the matter on behalf of Joeckel for the Firm.

4. On or about January 25, 2000, a Mandatory Settlement Conference ("MSC") was conducted in the Joeckel civil matter. At the MSC, Respondent entered into an agreement to settle the Joeckel civil matter for \$7,000. At the MSC, the Court contacted Richard J. Abrams ("Abrams"), Joeckel's prior counsel, by telephone and Abrams agreed to waive his lien, based on Respondent's representation before the Court that the Firm would waive its fees, and that Joeckel would receive \$5,000 as her net settlement proceeds.

5. Respondent did not have authorization from the Firm to waive the Firm's fees. Respondent knew that Severo would demand that the Firm take its one-third (1/3) share of the settlement, or \$2,333.33. Respondent also knew from having communicated on the telephone with Dr. Irv Jacobs ("Jacobs"), Joeckel's medical provider, during the January 25, 2000 MSC, that Jacobs demanded one-third (1/3) of the settlement (\$2,333.33) in satisfaction of his medical lien. Accordingly, Respondent realized at the time of settlement, that at the very least, he would have to pay a substantial portion of Joeckel's share of the settlement proceeds from his personal

account, and possibly satisfy a portion of Jacobs' medical lien with personal funds as well.

6. On or about January 28, 2000, the Automobile Club of America issued a settlement check made payable to the Firm and Joeckel in the sum of \$7,000. Respondent is unable to determine when the Firm received said check; however, the draft was likely received by the Firm in or about February 2000 and placed in the client file at that time. Respondent did not notify Joeckel of the receipt of the insurance check.

7. On or about March 22, 2000, Abrams wrote a letter on behalf of Joeckel inquiring about the status of the settlement check and demanding that Respondent provide Joeckel with her share of the settlement proceeds.

8. In or about March 2000, Respondent notified Joeckel of the receipt of the insurance check. And on or about April 18, 2000, Respondent met with Joeckel and obtained her endorsement on the settlement check. Respondent also provided Joeckel with check no. 2843, drawn from Respondent's personal checking account, Washington Mutual Bank account no. 871-1431506 ("Respondent's personal checking account), in the sum of \$1,666.67, payable to Joeckel.

9. On or about April 20, 2000, the insurance draft was deposited into the Firm's trust account at Bank of America, account no. 121000358 ("the Firm's trust account"). On the same date, check no. 1543 was issued from the Firm's trust account made payable to Severo in the sum of \$2, 333.33.

10. On or about May 1, 2000, Respondent issued check no. 2865, drawn from Respondent's personal checking account, in the sum of \$1,000, payable to Joeckel.

11. On or about May 9, 2000, Abrams sent a letter to Respondent demanding an immediate disbursement of the balance of Joeckel's share of the settlement proceeds.

12. On or about May 10, 2000, check no. 1544 was drawn from the firm's trust account in the sum of \$2, 333.33, made payable to Jacobs. On or about the same date, check no. 1545 was issued from the firm's trust account in the sum of \$2, 333.33, made payable to Joeckel.

13. Accordingly, by in or about May 2000, the Firm had entirely disbursed the settlement funds from the Joeckel civil matter; and Joeckel had received \$5,000 as her net settlement proceeds.

Legal Conclusions

By failing to notify Joeckel of the receipt of the insurance check until March 2000, Respondent failed to promptly notify a client of the receipt of the client's funds, in wilful violation of rule 4-100(B)(1) of the Rules of Professional Conduct.

By failing to provide Joeckel with her total share of the settlement proceeds until in or about May 2000, Respondent failed to pay promptly, as requested by the client, funds in his possession which the client is entitled to receive, in wilful violation of rule 4-100(B)(4) of the Rules of Professional Conduct.

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(6), was March 9, 2004.

DISMISSALS.

The parties respectfully request the Court to dismiss the following alleged violations in the interest of justice:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
Case No. 00-O-12083	TWO	Rule 4-100(A) of the Rules of Professional Conduct
Case No. 00-O-12083	FOUR	Business and Professions Code section 6068(i)

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 2.10 of the Standards For Attorney Sanctions For Professional Misconduct, Title IV of the Rules of Procedure ("Standards") provides that:

"Culpability of a member . . . of a wilful violation of any Rule of Professional Conduct not specified in these standards shall result in reproof or suspension according to the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3."

AGGRAVATING CIRCUMSTANCES.

No aggravating circumstances are present.

MITIGATING CIRCUMSTANCES.

The mitigating circumstances defined by Standards 1.2(e)(i), 1.2(e)(ii), 1.2(e)(iii), 1.2(e)(v), 1.2(e)(vii), and 1.2(e)(viii) are present in the instant matter.

OTHER FACTORS IN CONSIDERATION.

The settlement check was issued on or about January 28, 2000; and was likely received by the Firm in or about February 2000.

Respondent delayed in notifying Joeckel of the receipt of the settlement check and obtaining her endorsement on the check, because he realized that he would have to pay a substantial portion of Joeckel's share of the settlement proceeds from his personal funds and that he could not afford to do so at the time the check was received by the Firm. Respondent issued checks from his personal checking account made payable to Joeckel totaling \$2, 666.67. Respondent provided Joeckel with the funds as soon as he could afford to do so.

In or about 2000, Respondent was supporting a wife and a two year child, and his wife was pregnant.

Respondent acknowledges that he inappropriately handled the disbursements of the proceeds from the settlement of the Joeckel matter.

Respondent further acknowledges that he did not explain to Joeckel that he did not have the authority to waive the Firm's fees, and that he was unable to afford to pay her earlier than he did, because he was more interested in preserving his appearances before his client, than his client's well being.

However, Respondent did stay true to the representation made before the Court that Joeckel would receive \$5,000 as her net proceeds from the settlement. Joeckel received these funds approximately four months after the Firm received the settlement check.

STATE BAR ETHICS SCHOOL.

Because respondent has agreed to attend State Bar Ethics School as part of this stipulation, respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School.

March 16, 2004
Date

Jose R. Paz
Respondent's signature

JOSE R. PAZ
print name

~~March 19, 2004~~ EDM
Date

N/A
Respondent's Counsel's signature

N/A
print name

March 19, 2004
Date

[Signature]
Deputy Trial Counsel's signature

ELI D. MORGENSTERN
print name

ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproof, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- The stipulated facts and disposition are APPROVED AND THE REPROVAL IMPOSED.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.

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 135(b), Rules of Procedure.) Otherwise the stipulation shall be effective 15 days after service of this order.

Failure to comply with any conditions attached to this reproof may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.

4/5/04
Date

RICHARD A. HONN *[Signature]*
Judge of the State Bar Court

CERTIFICATE OF SERVICE
[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court. 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 April 8, 2004, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION
AND ORDER APPROVING, filed April 8, 2004**

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

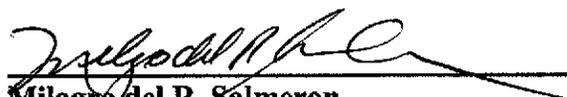
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**JOSE R PAZ
ATTORNEY AT LAW
811 WILSHIRE BLVD STE 1005
LOS ANGELES, CA 90017 2636**

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

Eli D. Morgenstern, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **April 8, 2004**.


Milagro del R. Salmeron
Case Administrator
State Bar Court