


State Bar Court of the State Bar of California
Hearing Department ☐ Los Angeles ☒ San Francisco

Counsel for the State Bar Tammy M. Albertsen-Murray State Bar No. 154248 180 Howard Street San Francisco, CA 94105	Case number(s) 00-0-12582 01-0-01521 kwiktag® 031 974 620 	(for Court's use) PUBLIC MATTER FILED <i>pm</i> APR 26 2004 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
Counsel for Respondent Jonathan I. Arons State Bar No. 111257 236 W. Portal Ave., #453 San Francisco, CA 94127		
In the Matter of MICHAEL E. HINGLE Bar # 153369 A Member of the State Bar of California (Respondent)	Submitted to <input type="checkbox"/> assigned judge <input checked="" type="checkbox"/> settlement judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING REPROVAL <input type="checkbox"/> PRIVATE <input checked="" type="checkbox"/> PUBLIC <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted June 12, 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 11 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 that:

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

B. Aggravating Circumstances [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: 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:

- * Respondent refunded Mr. Appling's \$600, plus an additional \$100, after the initiation of State Bar proceedings.
- * Respondent agreed to enter this stipulation and forego the need to prove his culpability through expensive formal hearing proceedings.

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 reproval for a period of Eighteen (18) months

(2) ☒ During the condition period attached to the reproval, 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 reproval. 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 reproval 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 reprobation.
- (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 reprobation.
- ☐ 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: MICHAEL E. HINGLE

CASE NUMBERS: 00-O-12582, ET AL.

FACTS AND CONCLUSIONS OF LAW.

The Appling Matter

Facts - Count One

On April 9, 1999, Jeffrey Appling employed respondent to assist him regarding his suspended driver's license. At the time Appling employed respondent, he paid respondent \$600 in advanced fees.

On April 15, 1999, Appling telephoned respondent and requested a status update. Respondent told Appling that respondent had telephoned the Department of Motor Vehicles ("DMV") a couple of times, but had not yet received a response from DMV.

From approximately April 15, 1999 to November 15, 1999, Appling called respondent several times and left a message each time requesting that respondent provide a status update. Respondent failed to respond to Appling's messages and failed to provide Appling with a status update.

Between May 1999 and February, 2000, Appling and/or attorney Joseph Landreth on Appling's behalf, telephoned respondent several times to request that respondent return Appling's telephone calls. Respondent told Landreth he would call Appling, but failed to do so.

On November 15, 1999, Appling telephoned respondent and spoke with respondent's receptionist. Appling informed respondent's receptionist that he was terminating respondent. Appling also requested that respondent return the \$600 he paid as advanced fees since respondent had done no work for him.

Respondent failed to return any money to Appling until 2004 and only after Appling filed his State Bar complaint.

Conclusion of Law - Count One

By failing to perform any services of value to Appling, respondent recklessly, repeatedly and intentionally failed to perform, in violation of Rules of Professional Conduct, rule 3-110(A).

Facts - Count Two

Sometime after April 1999, respondent stopped performing services for Appling. Respondent failed to inform Appling that he no longer was performing any services on Appling's behalf and he failed to respond to Appling's telephone calls from approximately April 15, 1999 through approximately November 15, 1999 requesting a status update.

Conclusions of Law - Count Two

By failing to inform Appling that he was no longer performing any services on his behalf and by failing to respond to Appling's telephone calls, respondent failed to inform his client of significant developments and failed to respond to reasonable status inquiries, in violation of Business and Professions Code, section 6068(m).

COUNTS THREE AND FOUR - Please see Dismissals, below.

Facts - Count Five

On or about March 13, 2000, the State Bar opened an investigation in case number 00-O-12582 (the Appling Matter).

On or about August 2, 2000, State Bar Investigator James Murphy wrote to respondent regarding his failure to perform in Appling's matter. The letter was properly addressed and mailed to respondent. The State Bar investigator's letter requested that respondent provide a written response to the allegations of misconduct being investigated by the State Bar in the Appling matter on or before August 16, 2000. Respondent did not respond to this letter.

Conclusion of Law - Count Five

By failing to respond to the State Bar's correspondence regarding the allegations of respondent's misconduct in the Appling Matter, respondent failed to cooperate in a disciplinary investigation in violation of Business and Professions Code, section 6068(i).

The McCall Matter

Facts - Count Six

On March 23, 2000, Gina McCall ("McCall") employed respondent to represent her regarding a family law matter. At the time she employed respondent, McCall paid him \$5,000 by check in advanced fees. Respondent negotiated the check on March 24, 2000.

On March 25, 2000, McCall called respondent and left him a message that she was terminating his services and requested the return of her \$5,000. At the same time, McCall also sent respondent an e-mail message terminating his services and requesting the return of her \$5,000. Respondent did not voluntarily return any portion of the \$5,000 advance fee to McCall.

On March 24, 2000, McCall employed and paid a different attorney to handle and complete her family law matter.

Between March 27, 2000 and approximately February 22, 2001, McCall placed several calls to respondent and left a message each time requesting the return of her \$5,000. Respondent received the messages, but failed to provide McCall with an accounting and failed to return any unearned fees to McCall. Ultimately, McCall filed a small claims action to recover the fees; on April 2, 2001, the court entered a default judgment against respondent for \$5,000 plus costs of \$69, for a total judgment of \$5,069. Prior to the court's entry of respondent's default, respondent caused a check for \$2,500 to be delivered to McCall along with his request that she dismiss the small claims case. McCall accepted the partial payment, but did not agree to and did not accept the partial payment in lieu of the full amount awarded to her by the court. McCall was forced to seek the assistance of the Sheriff to levy respondent's account to get the remainder of her fees returned to her and did not receive the proceeds of the levy until September, 2001.

Conclusion of Law - Count Six

By forcing McCall to go to small claims court to recover the unearned fees, respondent failed to promptly return unearned fees in violation of Rules of Professional Conduct, rule 3-700(D)(2).

COUNT SEVEN - Please see Dismissals, below.

Facts - Count Eight

On March 23, 2001, the State Bar opened an investigation in case number 01-O-01521 in the McCall Matter.

On May 17, 2001, State Bar Investigator James Murphy wrote to respondent regarding his failure to perform in McCall's matter. The letter was properly addressed and mailed to respondent. The State Bar investigator's letter requested that respondent provide a written response to the allegations of misconduct being investigated by the State Bar in the Appling matter on or before August 16, 2000. Respondent did not respond to this letter.

The investigator's letter requested that respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in this matter on or before June 1, 2001. Respondent did not respond to this letter.

On or about June 4, 2001, Gomez wrote another letter to respondent regarding respondent's failure to perform in Luton's matter by placing the letter in a sealed envelope correctly addressed to respondent at his address as maintained by the State Bar in accordance with Business and Professions Code section 6002.1. The letter was properly mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business on or about the date on the letter. The United States Postal Service did not return the letter sent to respondent as undeliverable or for any other reason.

The June 4, 2001 letter enclosed a copy of the May 17, 2001 letter and requested that respondent respond in writing by June 14, 2001. Respondent did not respond to this letter.

Conclusion of Law - Count Eight

By failing to respond to the State Bar's correspondence regarding the allegations of respondent's misconduct in the McCall Matter, respondent failed to cooperate in a disciplinary investigation in violation of Business and Professions Code, section 6068(i).

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(6), was April 15, 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>
00-O-12582	Three	Rules of Professional Conduct, rule 3-700(D)(2) [Failure to Refund Unearned Fees]

00-O-12582	Four	Rules of Professional Conduct, rule 3-700(A)(2) [Improper Withdrawal From Employment]
01-O-01521	Seven	Business and Professions Code, section 6106 [Moral Turpitude]

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.

4/16/04
Date

Michael E. Hingle
Respondent's signature

Michael E. Hingle
print name

April 16, 2004
Date

Jonathan I. Arons
Respondent's Counsel's signature

Jonathan I. Arons
print name

4/16/04
Date

Tammy M. Albertsen-Murray
Deputy Trial Counsel's signature

Tammy M. Albertsen-Murray
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.

April 26, 2004
Date

Cat McGarry
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 San Francisco, on April 26, 2004, 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:

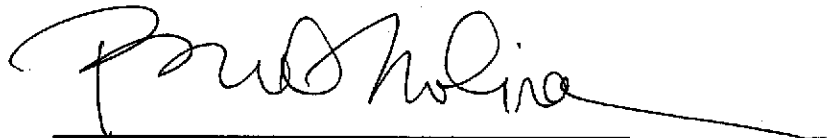
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

**JONATHAN IRWIN ARONS
236 W PORTAL AVE #453
SAN FRANCISCO CA 94127**

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

TAMMY ALBERTSEN-MURRAY, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **April 26, 2004.**



Bernadette C. O. Molina
Case Administrator
State Bar Court