

<p>Counsel for the State Bar  <b>Tammy M. Albertsen-Murray</b>  180 Howard Street  San Francisco, CA 94105</p>	<p>Case number(s)  00-0-14611</p> <p>kwiktag® 022 604 420</p> 	<p>(for Court's use)</p> <p><b>FILED</b> <i>[Signature]</i></p> <p>DEC 11 2003</p> <p>STATE BAR COURT CLERK'S OFFICE  SAN FRANCISCO</p>
<p>Counsel for Respondent    <b>Edward O. Lear</b>  Century Law Group  5200 W. Century Blvd., #940  Los Angeles, CA 90045</p>	<p>Submitted to <input type="checkbox"/> assigned judge <input checked="" type="checkbox"/> settlement judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>REPROVAL <input type="checkbox"/> PRIVATE <input checked="" type="checkbox"/> PUBLIC</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of    <b>RONI ROTHOLZ</b>  Bar # 92448  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 9, 1980 (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 9 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 95-0-14611 (Supreme Court case no. S067343)

(b)  Date prior discipline effective April 25, 1998

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

(d)  degree of prior discipline 60 days actual; 2 years stayed; 2 years probation; MPRE

(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, and stipulated to discipline without requiring a hearing.
- (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:

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 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:  
See page 8.

**ATTACHMENT TO**

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF:           RONI ROTHOLZ

CASE NUMBER:               00-O-14611-JMR

**FACTS AND CONCLUSIONS OF LAW.**

**Facts.**

Prior to January 1999, Jacklynn Roenspie was respondent's client. Roenspie is a partner of Ticket Tack California, Inc. ("TTC"), a private company that issued parking tickets on publically accessible private property. On or about January 12, 1999, Roenspie completed a Department of Motor Vehicles application ("DMV application") for a commercial requestor account. Roenspie prepared the DMV application with her contact information and listed respondent as the applicant. The DMV application requested that respondent be given access to confidential DMV information, stating that respondent was entitled to the information based on the fact that he was an attorney. On or about January 12, 1999, respondent signed the DMV application that Roenspie prepared.

The DMV application stated that respondent was applying for the DMV account as a sole owner of his business and listed his State Bar membership as the licensing authority. Respondent submitted the application to enable Roenspie to gain access to confidential information she needed to attempt to collect the money owed as a result of the parking tickets TTC issued. Roenspie could not obtain a DMV account and the confidential information contained in the DMV records because she did not qualify under DMV regulations to directly obtain the information.

At the time respondent submitted the DMV application, his business name was "Law Offices of Roni Rotholz" with an official membership address of 1870 Olympic Blvd., Suite 120, Walnut Creek, California and his office telephone number was (925) 932-0193. The DMV application listed both Jacklynn Roenspie and Craig Bagdon under the category "account contact person" and listed an address of 1517 Thistle Court, Oakley, California; mailing address P.O. Box 269, Walnut Creek, California; storage address same as physical address.

The application stated that the purpose of respondent's application was "the investigation

of and/or filing of civil action for unpaid parking claims directly involving the use of a motor vehicle.” The DMV application did not state that respondent was applying for the commercial requestor account on behalf of his client, Roenspie. It also did not state that respondent would provide Roenspie with his requestor code so that she could directly access the otherwise confidential DMV information to contact the owners of vehicles who received parking tickets. Respondent declared under penalty of perjury that he was the sole owner of the business and that no other person was associated with the ownership of the business.

The DMV application signed by respondent contained misleading information because it did not disclose that respondent was actually submitting the DMV application on Roenspie’s behalf; it listed Roenspie’s contact information as his own; and it did not disclose that respondent would provide Roenspie with his requestor code so that she could directly contact the vehicle owners who received parking tickets.

On or about January 20, 1999, the DMV approved respondent’s DMV application for a requestor code. On or about January 20, 1999, respondent entered into a Commercial Request Account Agreement. The Account Agreement provided, among other things, the requirement that respondent not disclose his requestor code to anyone other than a direct employee who had signed a security statement. Roenspie was his client; she was never respondent’s employee.

On or about January 20, 1999, respondent provided Roenspie - respondent’s non-employee/client who had signed no security statement - with the requestor code issued to him by the DMV. Between January 1999 and December 1999, Roenspie directly accessed approximately 5,881 confidential DMV records using respondent’s requestor code.

California Vehicle Code section 1808.46 states: “No person or agent shall distribute restricted or confidential [DMV] information to any person ... .” Respondent violated this section by allowing Roenspie to obtain confidential DMV information using respondent’s requestor code.

**Conclusion of Law.**

Respondent wilfully violated Business and Professions Code section 6068(a), by way of his violation of California Vehicle Code section 1808.46.

**PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A.(6), was November 14, 2003.

**DISMISSALS.**

In view of and as a condition of respondent's admission of culpability for Count Two of the Notice of Disciplinary Charges, the parties respectfully request the Court dismiss the following alleged violations in the interest of justice:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
00-O-14611-JMR	One	B & P 6106 [Moral Turpitude - providing false and misleading information to DMV]
00-O-14611-JMR	Three	B & P 6069(k) [Failure to Comply with Conditions of Probation]

**OTHER CONDITIONS NEGOTIATED BY THE PARTIES.**

The parties stipulate and agree that respondent will not allow Roenspie or any other non-employee, non-agent to have, access or otherwise use his DMV commercial requestor code.

Date 11/24/2003

[Signature]  
Respondent's signature

Roni Rotholz  
print name

Date 12/1/03

[Signature]  
Respondent's Counsel's signature

Edward O. Lear  
print name

Date 12/4/03

[Signature]  
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.

SEE DETACHED ORDER

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.

12/11/03  
Date

[Signature]  
Judge of the State Bar Court