

ORIGINAL

Counsel for the State Bar THE STATE BAR OF CALIFORNIA OFFICE OF THE CHIEF TRIAL COUNSEL ENFORCEMENT ERIN McKEOWN JOYCE, No. 149946 1149 South Hill Street Los Angeles, California 90015 213/765-1356	Case number(s) 01-0-01898RMT kwiktag® 031 974 507 	(for Court's use) PUBLIC MATTER FILED JUL - 8 2003 <i>gc</i> STATE BAR COURT CLERKS OFFICE LOS ANGELES
Counsel for Respondent DANIEL DAVID DYDZAK 1925 Century Park East Suite 500 Los Angeles, CA 90067 310/789-2102	Submitted to <input type="checkbox"/> assigned judge <input checked="" type="checkbox"/> settlement judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In Pro Per In the Matter of DANIEL DAVID DYDZAK Bar # 121857 A Member of the State Bar of California (Respondent)		

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted December 17, 1985
 (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
 - costs to be paid in equal amounts prior to February 1 for the following membership years:
2004, 2005
 (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."

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

(1) Prior record of discipline [see standard 1.2(f)] See Stipulation Attachment for three (3) prior impositions of discipline.

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

(b) date prior discipline effective _____

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

(d) degree of prior discipline _____

(e) If Respondent has two or more incidents of prior discipline, use space provided below 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) 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.
- (10) 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.
- (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. Stayed Suspension.

A. Respondent shall be suspended from the practice of law for a period of one (1) year

- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- ii. and until Respondent pays restitution to _____ [payee(s)] (or the Client Security Fund, if appropriate), in the amount of _____, plus 10% per annum accruing from _____, and provides proof thereof to the Probation Unit, Office of the Chief Trial Counsel
- iii. and until Respondent does the following: _____

B. The above-referenced suspension shall be stayed.

2. Probation.

Respondent shall be placed on probation for a period of two (2) years which shall commence upon the effective date of the Supreme Court order herein. (See rule 953, California Rules of Court.)

E. Additional Conditions of Probation:

- (1) During the probation period, Respondent shall comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2) Within ten (10) days of any change, Respondent shall report to the Membership Records Office of the State Bar 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.
- (3) Respondent shall submit written quarterly reports to the Probation Unit on each January 10, April 10, July 10, and October 10 of the period of probation. 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 probation during the preceding calendar quarter. If the first report would cover less than 30 days, that report shall be submitted on the next quarter date, and cover the extended period.

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

- (4) 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 to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Probation Unit. Respondent shall cooperate fully with the probation monitor.
- (5) 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 probation conditions.

- (6) Within one (1) year of the effective date of the discipline hearing, respondent shall provide to the Probation Unit satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended.
- (7) 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 to be filed with the Probation Unit.
- (8) The following conditions are attached hereto and incorporated:
- Substance Abuse Conditions Law Office Management Conditions
- Medical Conditions Financial Conditions
- (9) Other conditions negotiated by the parties:
- See Stipulation Attachment

- Multistate Professional Responsibility Examination: 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. Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 951(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.
- No MPRE recommended.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Daniel David Dydzak

CASE NUMBERS: 01-O-1898-RMT

FACTS AND CONCLUSIONS OF LAW

The parties to this stipulation, Respondent Daniel David Dydzak and the State Bar of California, through deputy Trial Counsel Erin Joyce, stipulate and agree to the following facts and conclusions of law:

Jurisdiction

Respondent Daniel David Dydzak was admitted to the practice of law in the State of California on December 17, 1985, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.

Case No. 01-O-1898
Business and Professions Code section 6068(a)
Failure to Support Laws - Unauthorized Practice

Respondent wilfully violated Business and Professions Code section 6068(a) by holding himself out as practicing or entitled to practice law or otherwise practicing law while he was not an active member of the California State Bar in violation of Business and Professions Code sections 6125 and 6126, as follows:

On July 17, 1998, the California Supreme Court entered an order (S070159) effective on August 16, 1998, suspending Respondent from the practice of law for one (1) year, staying that suspension, and placing Respondent on probation for three years on condition the he be actually suspended for thirty (30) days.

On July 17, 1998, the clerk of the Supreme Court properly served a copy of Supreme Court order no. S070159 on Respondent at his membership records address, by placing the order in an envelope addressed to Respondent's membership records address postage prepaid and depositing the envelope in the United States mail.

Respondent received Supreme Court order S070159.

Respondent was actually suspended from August 16, 1998 until September 15, 1998.

Respondent had previously been hired by Stephen R. Leibrock, on July 24, 1995, on a contingency basis and for a retainer fee of \$1,500.00, in a breach of contract dispute entitled Stephen R. Leibrock v. State of California, Superior Court Case no. 96-AS-00883 (the "CHP matter").

During Respondent's actual suspension, on August 20, 1998, the court served Respondent with an order to show cause why sanctions and an order striking the pleadings, entering default, or dismissal of

the action should not be imposed for Respondent's failure to appear at an August 13, 1998 arbitration/designation conference in the *CHP* matter.

The deputy Superior Court clerk properly served Respondent with a copy of the order to show cause by United States mail at his official membership address.

Respondent appeared at the September 10, 1998 order to show cause hearing, while he was actually suspended from the practice of law, due to his disciplinary suspension ordered by Supreme Court order no. S070159.

By making a court appearance representing Mr. Leibrock on September 10, 1998, and performing legal services while when he was not an active member of the State Bar of California, Respondent held himself out as entitled to practice law in wilful violation of Business and Professions Code sections 6125 and 6126, and thereby failed to comply with the laws of the State of California in violation of Business and Professions Code section 6068(a).

AUTHORITIES SUPPORTING DISCIPLINE

STANDARDS FOR ATTORNEY SANCTIONS

Pursuant to Standard 1.3 of the Standards for Attorney Sanctions for Professional Misconduct:

The primary purposes of disciplinary proceedings conducted by the State Bar of California and of sanctions imposed upon a finding or acknowledgment of a member's professional misconduct are the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the protection of public confidence in the legal profession.

Business and Professions Code section 6068(a) requires that an attorney must uphold the laws of the State, the United States and the Constitution. Section 6068(a) provides that:

It is the duty of an attorney to do all of the following: (a) To support the Constitution and the laws of the United States and this state.

Sections 6125 and 6126 of the Business and Professions Code prohibit the practice of law or holding oneself out as entitled to practice law by anyone other than an active member of the State Bar. Respondent's unauthorized practice of law in the *CHP* matter violated his duty to uphold the laws, a violation of Section 6068(a). *In the Matter of Acuna* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 495.

OTHER CONDITIONS NEGOTIATED BY THE PARTIES

Respondent shall successfully complete six (6) hours of participatory continuing legal education courses in attorney/client relations above those required for his license and provide proof of completion within one (1) year of the effective date of the order approving this stipulation re facts, conclusions of law and disposition to the Probation Unit of the State Bar of California.

PRIOR DISCIPLINE

Under Standard 1.2(b)(i), Respondent's prior record of discipline is an aggravating factor. Under Standard 1.7(b):

If a member is found culpable of professional misconduct in any proceeding in which discipline may be imposed and the member has a record of two prior impositions of discipline as defined by Standard 1.2(f), the degree of discipline in the current proceeding shall be disbarment unless the most compelling mitigating circumstances clearly predominate.

Respondent has a record of prior imposition of discipline.

Case No. 94-O-11332

Respondent stipulated to culpability in several client matters in case no. 94-O-11332 which resulted in an actual suspension of 30 days. This is the disciplinary suspension during which the State Bar Respondent continued to practice law.

In case no. 94-O-11332, Respondent stipulated to culpability for violation of Rules of Professional Conduct 4-100(B)(4), 4-100(A), 3-700(D)(1), and 3-700(D)(2), and Business and Professions Code sections 6068(m) and 6068(i).

Case Nos. 00-O-12213 and 00-O-11332

Subsequent to the misconduct alleged in this matter, Respondent engaged in additional conduct for which he entered two separate stipulations. One stipulation was for the imposition of a private reproof (00-O-12213)(violation of Business and Professions Code section 6068(o)) and the second stipulation was for a public reproof (00-O-11332)(violation of Business and Professions Code section 6068(b)). Both stipulations were filed on February 28, 2002. These two additional matters should not be strictly considered priors, since the alleged misconduct in this case pre-dates the conduct described in the two reprovals.

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(6), was June 27, 2003.

June 29, 2003
Date


Respondent's signature

DANIEL DAVID DYDZAK
print name

Date

Respondent's Counsel's signature

print name

7-2-03
Date


Deputy Trial Counsel's signature

ERIN McKEOWN JOYCE
print name

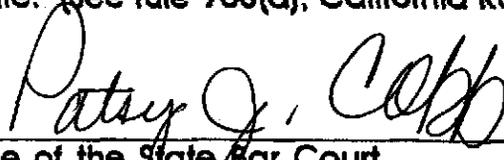
ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.

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.) The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 953(a), California Rules of Court.)

7/8/03
Date


PRO TEM 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 July 8, 2003, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION
AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL
SUSPENSION, filed July 8, 2003**

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:

**DANIEL D. DYDZAK
1925 CENTURY PARK EAST,
STE#500
LOS ANGELES, CA 90067**

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

ERIN M. JOYCE, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on July 8, 2003.



Tammy R. Cleaver
Case Administrator
State Bar Court