


<b>Counsel for the State Bar</b>  THE STATE BAR OF CALIFORNIA OFFICE OF THE CHIEF TRIAL COUNSEL LEE ANN KERN, NO. 156623 1149 S. Hill Street Los Angeles, CA 90015-2299	<b>Case number(s)</b>  01-0-04484  kwiktag® 031 975 100 	<b>(for Court's use)</b>  <b>FILED</b>  MAR - 2 2004 <i>sc</i>  STATE BAR COURT CLERK'S OFFICE LOS ANGELES  <b>PUBLIC MATTER</b>
<b>Counsel for Respondent</b>  ARTHUR MARGOLIS 2000 RIVERSIDE DRIVE LOS ANGELES, CA 90039-3758		
<b>In the Matter of</b>  MARIE A. BACKES  Bar # 108191  A Member of the State Bar of California (Respondent)	<b>Submitted to</b> <input type="checkbox"/> assigned judge <input checked="" type="checkbox"/> settlement judge  <b>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</b>  <b>REPROVAL</b> <input type="checkbox"/> <b>PRIVATE</b> <input checked="" type="checkbox"/> <b>PUBLIC</b>  <input type="checkbox"/> <b>PREVIOUS STIPULATION REJECTED</b>	

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted June 3, 1983 (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 \_\_\_\_\_ 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:  
2005, 2006, 2007  
(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:

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 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 reproof.
- (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 reproof.
- ☒ No MPRE ordered.
- (10) ☐ The following conditions are attached hereto and incorporated:
- ☐ Substance Abuse Conditions      ☒ Law Office Management Conditions
- ☐ Medical Conditions      ☐ Financial Conditions
- (11) ☐ Other conditions negotiated by the parties:

In the Matter of     Marie Backes  
A Member of the State Bar

Case Number(s):  
01-0-04484

Law Office Management Conditions

- a. ☐ Within \_\_\_\_ days/ \_\_\_\_ months/ \_\_\_\_ years of the effective date of the discipline herein, Respondent shall develop a law office management/ organization plan, which must be approved by respondent's probation monitor, or, if no monitor is assigned, by the Probation Unit. This plan must include procedures to send periodic reports to clients; the documentation of telephone messages received and sent; file maintenance; the meeting of deadlines; the establishment of procedures to withdraw as attorney, whether of record or not, when clients cannot be contacted or located; and, for the training and supervision of support personnel.
- b. ☒ Within \_\_\_\_ days/ \_\_\_\_ months 1 year of the effective date of the discipline herein, respondent shall submit to the Probation Unit satisfactory evidence of completion of no less than 6 hours of MCLE approved courses in law office management, attorney client relations and/ or general legal ethics. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and respondent shall not receive MCLE credit for attending these courses (Rule 3201, Rules of Procedure of the State Bar.)
- c. ☐ Within 30 days of the effective date of the discipline, respondent shall join the Law Practice Management and Technology Section of the State Bar of California and pay the dues and costs of enrollment for \_\_\_\_ year(s). Respondent shall furnish satisfactory evidence of membership in the section to the Probation Unit of the Office of Chief Trial Counsel in the first report required.

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

IN THE MATTER OF:       MARIE ANN BACKES

CASE NUMBER(S):       01-O-04484

**FACTS AND CONCLUSIONS OF LAW.**

Respondent admits that the following facts are true and that she is culpable of violating the statute:

COUNT ONE:       Business and Professions Code, section 6068(d)  
[Employing Means Inconsistent with Truth and Seeking to Mislead a Judge]

1.     On or about July 21, 2000, Respondent, on behalf of her client Stuart Deutsch ("Deutsch"), filed a lawsuit against Deutsch's employer Vectron and others in the San Diego Superior Court. The matter was entitled, *Stuart J. Deutsch v. Vectron, et al.*, case number GIC 751696.
2.     Deutsch prevailed against defendant Vectron and was entitled to recover reasonable attorneys' fees and costs. On or about July 9, 2001, Respondent filed a Memorandum of Costs ("MOC") in which she sought to recover fees and costs. In support of her MOC, Respondent filed a declaration dated July 6, 2000, in which she declared under penalty of perjury "[a] true and correct breakdown of the hours *I* spent in the evaluation, preparation and litigation of the instant case is attached hereto." [Emphasis added.]
3.     At the time Respondent filed her declaration in support of the MOC, she knew the declaration was false in that she personally did not perform all of the "evaluation" and "preparation" of Deutsche's case, but had the help of a paralegal. In her declaration, Respondent did not distinguish the work she performed from that performed by the paralegal.
4.     Respondent contends that at the time she prepared her declaration, she believed that the paralegal was, in fact, an attorney. The paralegal, who had a J.D., had misrepresented to Respondent that he was an attorney.

5. On or about September 7, 2001, the court issued its written ruling concerning Respondent's motion for attorney's fees and ruled that Deutsch was not entitled to recover funds for any of the work performed by the paralegal.
6. **LEGAL CONCLUSION:** By falsely declaring that all of the legal services set forth in her MOC were performed by her, Respondent employed, for the purposes of maintaining the causes confided in her, means which were inconsistent with truth, in wilful violation of Business and Professions Code section 6068(d).

#### **ADDITIONAL MITIGATING CIRCUMSTANCES.**

During the period in question, Respondent was experiencing severe stress and exhaustion relating to her very acrimonious marital dissolution and related family problems, as well as her own medical difficulties.

#### **PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A.(6), was February 20, 2004.

#### **AUTHORITIES SUPPORTING DISCIPLINE.**

In *DiSabatino v. State Bar* (1980) 27 Cal.3d 159, 162, the attorney misled a bail commissioner by failing to disclose two other bail reductions motions he had filed. DiSabatino had no prior record of discipline and was publically reprovved for his misconduct.

In *Mushrush v. State Bar* (1976) 17 Cal.3d 481, the attorney made false statements to the court in a bankruptcy proceeding and to the State Bar Court. Mushrush had no prior record of discipline in 17 years of practice and was publically reprovved for his misconduct.

In *Davidson v. State Bar* (1976) 17 Cal.3d 570, the attorney concealed material facts from the court in a contested custody proceeding. Davidson had a prior public reprovval, but was again publically reprovved for his misconduct.



2-21-04  
Date

mbacles  
Respondent's signature

Marie Backes  
print name

2/25/04  
Date

Arthur L. Margolis  
Respondent's Counsel's signature

Arthur Margolis  
print name

2/26/04  
Date

Lee Ann Kern  
Deputy Trial Counsel's signature

Lee Ann Kern  
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.

3-1-04  
Date

Robert M. Talcott  
Judge of the State Bar Court

**ROBERT M. TALCOTT**

**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 March 2, 2004, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION  
AND ORDER APPROVING PUBLIC REPROVAL, filed March 2, 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:

**ARTHUR L. MARGOLIS  
MARGOLIS & MARGOLIS  
2000 RIVERSIDE DR.,  
LOS ANGELES CA 90039-3758**

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

**LEE ANN KERN, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **March 2, 2004.**



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**Tammy R. Cleaver**  
Case Administrator  
State Bar Court