



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 00-0-10772; 00-0-11604 (cons.)

(b)  date prior discipline effective October 18, 2001

(c)  Rules of Professional Conduct/ State Bar Act violations: Business and Professions

Code, section 6106

(d)  degree of prior discipline 45 days actual suspension

(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. Stayed Suspension.

A. Respondent shall be suspended from the practice of law for a period of Six (6) months

- 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 One (1) year which shall commence upon the effective date of the Supreme Court order herein. (See rule 953, California Rules of Court.)

3. Actual Suspension.

A. Respondent shall be actually suspended from the practice of law in the State of California for a period of Ninety (90) days

- 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: \_\_\_\_\_

E. Additional Conditions of Probation:

- (1)  If Respondent is actually suspended for two years or more, he/she shall remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2)  During the probation period, 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 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.
- (4)  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.

- (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 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.
- (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 probation conditions.
- (7)  Within one (1) year of the effective date of the discipline herein, 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.
- (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 to be filed with the Probation Unit.
- (9)  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             |
- (10)  Other conditions negotiated by the parties:
- 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 during the period of actual suspension or within one year, whichever period is longer. 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.
- Rule 955, California Rules of Court: Respondent shall comply with the provisions of subdivisions (a) and (c) of rule 955, California Rules of Court, within 30 and 40 days, respectively, from the effective date of the Supreme Court order herein.
- Conditional Rule 955, California Rules of Court: If Respondent remains actually suspended for 90 days or more, he/she shall comply with the provisions of subdivisions (a) and (c) of rule 955, California Rules of Court, within 120 and 130 days, respectively, from the effective date of the Supreme Court order herein.
- Credit for Interim Suspension [conviction referral cases only]: Respondent shall be credited for the period of his/her interim suspension toward the stipulated period of actual suspension.

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF:      TONY FORBERG

CASE NUMBER(S):      02-O-11776

**FACTS AND CONCLUSIONS OF LAW.**

COUNT ONE

**FACTS**

1. On or about February 2, 1998, Elba Larios ("Elba") and her mother Rosa Larios ("Rosa") employed Respondent to represent them in a personal injury/property damage claim arising from an automobile accident suffered by Rosa while she was driving Elba's automobile on or about January 29, 1998. Elba was not in the car at the time of the accident and was only interested in the property damage aspect of the case.

2. On or about February 10, 1999, Mercury Insurance issued check number 21524984 in the amount of \$6,471.00 payable to Elba, Nissan Motor Acceptance Corporation and Respondent. The memo section of the check stated, "In full settlement of PD claim arising out of incident on 01/29/98."

3. On or about May 12, 1999, Respondent deposited the PD settlement check into his client trust account, account number 16648-07547 at Bank of America ("Respondent's client trust account").

4. Following the May 12, 1999 deposit of the PD settlement funds received from Mercury Insurance, the balance in Respondent's client trust account fell below \$6,471.00 on repeated dates, including but not limited to, May 20, 1999 when the balance fell to \$97.50.

**CONCLUSIONS OF LAW**

By not maintaining at least \$6,373.50 received from Mercury Insurance on behalf of Elba in Respondent's client trust account, Respondent failed to maintain client funds in a trust account in wilful violation of Rules of Professional Conduct, rule 4-100(A).

COUNT TWO

**FACTS**

5. The allegations of paragraphs 1 through 3 are incorporated by reference.

6. On or about May 1, 1999, prior to the deposit of Elba's PD settlement funds, the balance in Respondent's client trust account was \$4.50. The first activity in Respondent's client trust account in May 1999, was the deposit of Elba's PD settlement funds of \$6,471 on or about May 12, 1999. The balance on that day \$6,475.50.

7. On or about May 13, 1999, Respondent made a deposit of \$10,185 into his client trust account. The balance on that day \$16,660.50.

8. On or about May 14, 1999, check number 782, written by Respondent, in the amount of \$6,300 payable to the Law Offices of Tony Forberg and check number 783, written by Respondent, in the amount of \$350 payable to the Law Offices of Tony Forberg cleared Respondent's client trust account. The balance on that day \$10,010.50.

9. On or about May 17, 1999, a deposited item was returned from Respondent's client trust account in the amount of \$5,685 and a deposited item return fee of \$28 was charged against Respondent's client trust account. Additionally, on or about May 17, 1999, check number 784, written by Respondent, in the amount of \$3,500 payable to the Law Offices of Tony Forberg cleared Respondent's client trust account. The balance on that day \$797.50.

10. On or about May 20, 1999, check number 785, written by Respondent, in the amount of \$700, payable to the Law Offices of Tony Forberg, cleared Respondent's client trust account. The balance on that day \$97.50.

11. On or about May 24, 1999, Respondent made a deposit into his client trust account of \$500. The balance on that day \$597.50.

12. On or about May 28, 1999, Respondent made a deposit into his client trust account of \$500. Additionally, on or about May 28, 1999, check number 786, written by Respondent in the amount of \$500 payable to the Law Offices of Tony Forberg and check number 787, written by Respondent in the amount of \$80 payable to the Law Offices of Tony Forberg, cleared Respondent's client trust account. The balance on that day \$517.50.

13. The only checks written by Respondent for the month of May, 1999, were to Respondent.

14. Respondent with gross negligence misappropriated Elba's PD settlement funds and converted them to his personal use and benefit.

### **CONCLUSIONS OF LAW**

By misappropriating at least \$6,373.50 of the Elba's PD settlement funds, and converting them to his personal use and benefit, Respondent committed an act or acts involving moral turpitude in violation of Business and Professions Code, § 6106.

### **COUNT THREE**

#### **FACTS**

15. The allegations of paragraphs 1 through 3 are incorporated by reference.

16. At no time did Respondent inform Elba that he had received PD settlement funds on her behalf.

### **CONCLUSIONS OF LAW**

By not informing Elba of his receipt in February 1999 of \$6,471 in PD settlement funds on her behalf, Respondent wilfully failed to notify a client of the receipt of settlement funds in violation of Rules of Professional Conduct, rule 4-100(B)(1).

### **COUNT FOUR**

#### **FACTS**

17. The allegations of paragraphs 1 through 3 are incorporated by reference.

18. At the time she employed Respondent, Respondent assured Elba that he would handle the property damage aspect of the case. Elba requested that he take care of the property damage as soon as possible, as that was her only transportation.

19. At no time did Respondent pay the PD settlement funds received on behalf of Elba to Elba or Nissan Motor Acceptance Corporation.

### **CONCLUSIONS OF LAW**

By not paying Elba's PD settlement funds to Elba and/or Nissan Motor Acceptance Corporation,

Respondent wilfully failed to pay client funds as requested by his client in violation of Rules of Professional Conduct, rule 4-100(B)(4).

### COUNT FIVE

#### FACTS

20. The allegations of paragraphs 1 through 3, and 16 are incorporated by reference.

21. On or about March 21, 2002, Elba received notification from the County Clerk and Recorder of Riverside County that there was an abstract of judgment filed against her in the amount of \$11,104.95 by Nissan Motor Acceptance Corporation pursuant to a default judgment they received on or about February 7, 2002 in case number 00K24313 in Los Angeles Superior Court.

#### CONCLUSIONS OF LAW

By not disbursing Elba's PD settlement funds to her or Nissan Motor Acceptance Corporation, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of Rules of Professional Conduct, rule 3-110(A).

### COUNT SIX

#### FACTS

22. The allegations of paragraphs 1 through 3 are incorporated by reference.

23. On or about April 24, 2002, the State Bar Investigator assigned to this case, wrote to Respondent regarding the allegations of professional misconduct made by Elba against him. The investigator requested that Respondent provide, *inter alia*, all client trust account ledgers relating to Rosa Larios and the written trust account journal and each monthly reconciliation from and including the date the settlement checks were received to the present.

24. By response dated June 5, 2002, Respondent admitted that he failed to maintain any client trust account ledger and Respondent failed to provide any trust account journal and/or monthly reconciliation.

#### LEGAL CONCLUSIONS

By failing to maintain a client ledger, trust account journal and reconciliation, Respondent wilfully

failed to maintain and preserve complete records of Rosa and Elba's funds which came into his possession in wilful violation of Rules of Professional Conduct, rule 4-100(B)(4).

**PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A.(6), was October 10, 2003.

**STATE BAR ETHICS SCHOOL EXCLUSION.**

It is not recommended that respondent attend State Bar Ethics School since respondent attended Ethics School within the last two years on August 15, 2002 in connection with case number 00-O-1-772.

**STATE BAR CLIENT TRUST ACCOUNT SCHOOL EXCLUSION.**

It is not recommended that respondent attend State Bar Client Trust Account School since respondent attended Client Trust Account School within the last two years on August 15, 2002 in connection with case number 00-O-10772.

**MULTISTATE PROFESSIONAL RESPONSIBILITY EXAMINATION EXCLUSION.**

It is recommended that respondent not be required to take the Multistate Professional Responsibility Examination because he or she was ordered to take and pass the examination on August 9, 2002 in connection with case number 00-O-10772.

**OTHER CONDITIONS NEGOTIATED BY THE PARTIES.**

Within one (1) year of the effective date of the discipline herein, Respondent shall provide to the Probation Unit a declaration under penalty of perjury that Respondent has reconciled all disbursements from his client trust account from January 1, 1999 through December 31, 1999, with all client files from the same time period. If Respondent locates any problems with those disbursements, details are not required, only a statement that all problems have been resolved.

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**MITIGATING CIRCUMSTANCES.**

## FACTS SUPPORTING MITIGATING CIRCUMSTANCES.

In 1996, Respondent opened a second office with another attorney in Glendale, California handling workers' compensation cases. In 1997 Respondent employed his wife as a second attorney in his main office and employed a paralegal. Respondent handled all personal injury civil trial litigation and his wife handled family law cases and assisted with discovery in the civil litigation cases. The paralegal was assigned all non-litigation work on the personal injury cases.

In late 1998, Respondent and his wife separated and she ceased practicing law with Respondent. About the same time, Respondent's paralegal also left his office. Respondent attempted to handle the increased workload. However, Respondent was not able to handle all his office management responsibilities with the additional caseload. Accordingly, he failed to properly manage his client trust account.

In an attempt to regain control of his caseload and office management responsibilities, in September 1999, Respondent closed the Glendale office and began sharing office space with another attorney who assisted Respondent with his caseload.

Respondent stopped taking complicated personal injury cases until he felt that he could properly supervise his caseload, i.e., closing old cases, and his office management responsibilities. In an effort to properly manage his client trust account, Respondent has employed a bookkeeper to assist in the record keeping of his various accounts. Respondent's practice consists now of a manageable case load with a relatively small number of business clients.

Upon being notified of the problem, Respondent made full restitution of the funds in question.

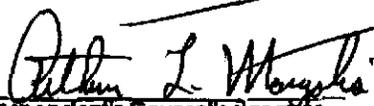
This matter grew out of the same time period and circumstances which gave rise to the prior disciplinary proceeding.

Date 10/30/03

  
Respondent's signature

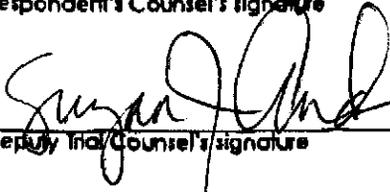
Tony Forberg  
print name

Date 11/2/03

  
Respondent's Counsel's signature

Arthur L. Margolis  
print name

Date 11/4/03

  
Deputy Trial Counsel's signature

Suzan J. Anderson  
print name

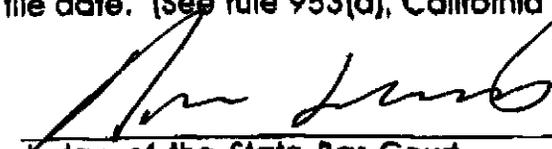
**ORDER**

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.)

Date 11/18/03

  
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 November 26, 2003, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION  
AND ORDER APPROVING ACTUAL SUSPENSION , filed  
November 26, 2003**

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 Los Angeles, California, addressed as follows:

**Arthur Lewis Margolis  
Margolis & Margolis LLP  
2000 Riverside Dr  
Los Angeles CA 90039 3758**

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

**SUZAN ANDERSON, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **November 26, 2003.**



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