

Counsel for the State Bar <b>THE STATE BAR OF CALIFORNIA</b> <b>OFFICE OF THE CHIEF TRIAL COUNSEL</b> <b>ENFORCEMENT</b> SHARI SVENINGSON, BAR NO. 195298 1149 South Hill Street Los Angeles, CA 90015-2299 Telephone: (213) 765-1004	Case number(s) 02-0-12346  <b>PUBLIC MATTER</b>  kwiktag® 035 115 388 	(for Court's use)  <b>FILED</b>  FEB 11 2004 STATE BAR COURT CLERK'S OFFICE LOS ANGELES
Counsel for Respondent Manvinder Gill, Bar No. 194519 350 N. Glenoaks Blvd #203 Burbank, CA 91502 Telephone: (818) 556-5600  <b>IN PROPRIA PERSONA</b>	Submitted to <input checked="" 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 the Matter of <b>MANVINDER GILL</b>  Bar # 194519 A Member of the State Bar of California (Respondent)		

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted March 3, 1998 (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
  - costs to be paid in equal amounts prior to February 1 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."

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 ~~or any other disciplinary proceedings~~ ~~with respect to his/her conduct or any other disciplinary proceedings.~~
- (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 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: \_\_\_\_\_

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.)

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 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.
- (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    See page 9.
- (9)  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 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:        MAVINDER GILL

CASE NUMBER(S):        02-O-12346

**FACTS AND CONCLUSIONS OF LAW.**

Respondent admits that the foregoing facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct:

1. On or about September 14, 2000, Jose Martinez and his daughter, Jackie Martinez, employed Respondent to represent them as plaintiffs for injuries they suffered in an auto accident (the "personal injury matter"). At the time of employment, both Jose Martinez and Jackie Martinez spoke only with Respondent's paralegal, Albert Rivas ("Rivas").

2. Between on or about September 15, 2000 and October 15, 2000, Rivas instructed Jose Martinez on where to bring his auto to obtain an estimate of repairs. After Jose Martinez obtained at least one estimate, Rivas instructed Jose Martinez to wait to get his auto repaired until Rivas instructed him to do so.

3. On or about January 29, 2001, Respondent settled the property damage claim in the personal injury matter and the defendant's insurance company issued a check to Respondent in the amount of \$1,473.23 payable solely to Jose Martinez. On or about that date, Respondent instructed Rivas to deliver the check to Jose Martinez.

4. On or about February 5, 2001, the \$1,473.23 check for the property damage claim was cashed at a check cashing service and purported to be endorsed by Jose Martinez.

5. In or about May 2001, Jose Martinez contacted Rivas by telephone to inquire about the status of the personal injury matter. Rivas told Jose Martinez that the matter was still on-going.

6. On or about June 26, 2001, Respondent received an offer from the defendant in the personal injury matter for Jose and Jackie Martinez' bodily injury claims. On that date,

Respondent instructed Rivas to obtain the signatures of Jose and Jackie Martinez on the "Release of all Claims" ("Release"), both of which were dated June 26, 2001. One Release settled Jose Martinez' bodily injury claim in the personal injury matter for \$4,750, the other Release settled Jackie Martinez' bodily injury claim in the personal injury matter for \$2,000. Rivas signed or caused to be signed Jose and Jackie Martinez' names on each respective Release and did not indicate that either of the Martinez' names were signed in a representative capacity.

7. On or about July 6, 2001, Respondent wrote a check in the amount of \$1,533 payable to Jose Martinez which represented Jose Martinez' share of the settlement proceeds for the bodily injury claim. On that date, Respondent also wrote check in the amount of \$617 payable to Jackeline Martinez which represented Jackie Martinez' share of the settlement proceeds for the bodily injury claim. Also on that date, Respondent instructed Rivas to deliver the checks to Jose and Jackie Martinez.

8. On or about July 9, 2001, both of the checks that Respondent wrote and made payable to Jose and Jackie Martinez for their share of the settlement proceeds for the bodily injury claim in the personal injury matter were cashed at a check cashing service and each respective check purported to be endorsed by Jose and Jackie Martinez.

9. At no time did Respondent obtain either Jose Martinez or Jackie Martinez' authorization to settle the personal injury matter.

10. At no time did Jose Martinez get any repairs done on his auto.

11. At no time did Jose Martinez endorse the \$1,473.23 check for the property damage claim or receive any money from the settlement proceeds of the property damage claim.

12. At no time did either Jose Martinez or Jackie Martinez endorse the checks issued to them by Respondent for their share of the bodily injury claim or receive any portion of their respective share from the settlement proceeds.

## **LEGAL CONCLUSION**

By failing to properly supervise his employee to ensure that both Jose and Jackie Martinez authorized the settlement of the bodily injury claims, that both Jose and Jackie Martinez received the checks he issued to them for \$1,533 and \$617 for their share of the bodily injury settlement proceeds and that Jose Martinez received the \$1,473.23 settlement check for the property damage claim, Respondent recklessly failed to perform legal services with competence in violation of Rules of Professional Conduct, rule 3-110(A).

## **PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A.(6), was by letter dated ~~December 10, 2003.~~ *January 14, 2004.*  
*SS.*

## **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of **December 10, 2003**, the estimated prosecution costs in this matter are approximately **\$1,983**. Respondent acknowledges that this figure is an estimate only and that it does not include State Bar Court costs which will be included in any final cost assessment. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

## FINANCIAL CONDITIONS, RESTITUTION.

Within **three (3) months** from the effective date of discipline in this matter, respondent must make restitution to **Jose Martinez** or the Client Security Fund if it has paid, in the principal amount of **\$3,006 plus interest at the rate of 10% per annum from July 9, 2001** and furnish satisfactory evidence of restitution to the Probation Unit. Respondent shall include in each quarterly report required herein satisfactory evidence of all restitution payments made by him during that reporting period.

Within **three (3) months** from the effective date of discipline in this matter, respondent must make restitution to **Jackeline Martinez** or the Client Security Fund if it has paid, in the principal amount of **\$617 plus interest at the rate of 10% per annum from July 9, 2001** and furnish satisfactory evidence of restitution to the Probation Unit. Respondent shall include in each quarterly report required herein satisfactory evidence of all restitution payments made by him during that reporting period.

## AUTHORITIES SUPPORTING DISCIPLINE

Waysman v. State Bar (1986) 41 Cal. 3d 452:

Respondent Waysman was found culpable of commingling and misappropriating \$24,000 in client funds. The funds were received by the respondent's office when he was out of town. He had his secretary place them in his general account because the draft would clear sooner than if he placed them in his trust account. When he returned he discovered the secretary had quit after having used several pre-signed checks written on the account. The entire \$24,000 was spent. The court found 6 months stayed suspension, 1 year probation was appropriate in light of the facts that strongly suggested respondent was simply negligent and had no specific intent to defraud his clients.

Palomo v. State Bar (1984) 36 Cal. 3d 785:

Respondent Palomo simulated his client's signature on an estate distribution check in the amount of \$3,000, deposited it into his own payroll account, and subsequently spent it. Although the respondent did forge his client's signature, it was found that he had no specific intent to defraud the client but had been lax in his financial procedures. The respondent, who had one instance of prior discipline, received 1 year stayed suspension and 1 year probation.

Crane v. State Bar (1981) 30 Cal. 3d 117:

Respondent Crane represented the sellers of a residence. He attempted to deceive an escrow agent by altering a beneficiary statement by "crossing out" certain printed material and by failing

to communicate the fact the deletions were his and were unauthorized. The respondent was culpable of an act of moral turpitude. In another client matter, respondent communicated directly with an adverse party. The court found that respondent could not blame his office staff because he was responsible for his employees' work product. The respondent received 1 year stayed suspension and 1 year probation.

Less discipline is warranted in this case because Respondent Gill has no prior discipline, the amount of client funds involved is far less than the \$24,000 involved in Waysman. Further, unlike in Palomo, Respondent Gill did not spend his clients' funds and unlike in Crane, his misconduct involved only one client matter.

01  
2/09/2004  
Date

Mavinder Gill  
Respondent's signature

MAVINDER GILL  
print name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Respondent's Counsel's signature

\_\_\_\_\_  
print name

4/14/04  
Date

Shari Sveningson  
Deputy Trial Counsel's signature

SHARI SVENINGSON  
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.)

2/10/04  
Date

**RICHARD A. HONN** [Signature]  
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 February 11, 2004, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION  
AND ORDER APPROVING, filed February 11, 2004**

in a sealed envelope for collection and mailing on that date as follows:

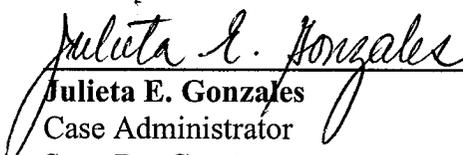
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**MANVINDER GILL ESQ  
350 N GLENOAKS BLVD #203  
BURBANK, CA 91502**

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

**Shari Sveningson, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **February 11, 2004.**

  
\_\_\_\_\_  
**Julieta E. Gonzales**  
Case Administrator  
State Bar Court