


<b>Counsel for the State Bar</b> THE STATE BAR OF CALIFORNIA OFFICE OF THE CHIEF TRIAL COUNSEL GORDON L. GRENIER, # 225430 1149 South Hill Street Los Angeles, CA 90015-2299 Tel: (213) 765-1237	<b>Case number(s)</b> 02-0-12538  kwiktag® 031 978 384 	<b>(for Court's use)</b>  <b>FILED</b>  JUN 11 2004 <i>YK</i>  STATE BAR COURT CLERK'S OFFICE
<b>Counsel for Respondent</b> ELLEN A. PANSKY, # 77688 1114 Fremont Avenue South Pasadena, CA 91030-3227 Tel: (213) 626-7300	<b>PUBLIC MATTER</b>	
<b>In the Matter of</b> JERRY A. JACOBSON  Bar # 163065  A Member of the State Bar of California (Respondent)	Submitted to <input type="checkbox"/> assigned judge <input checked="" type="checkbox"/> settlement judge  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  REPROVAL <input type="checkbox"/> PRIVATE <input checked="" type="checkbox"/> PUBLIC  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted December 14, 1992  
(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 \_\_\_\_\_

- (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 ~~ever 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 Two (2) years.

(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:
- ☐ Substance Abuse Conditions      ☐ Law Office Management Conditions
- ☐ Medical Conditions      ☐ Financial Conditions
- (11) ☒ Other conditions negotiated by the parties:  
Eight (8) hours MCLE in Law Office Management (hours may be applied to MCLE credits)

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

IN THE MATTER OF:        JERRY A. JACOBSON

CASE NUMBER(S):        02-O-12538

**FACTS AND CONCLUSIONS OF LAW.**

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and Rules of Professional conduct.

**Statement of Facts:**

On June 25, 1997, Martha Hickman ("Hickman") retained Respondent for a personal injury claim involving a slip and fall accident at the Hollywood Bowl. On January 26, 1998, Respondent filed a lawsuit, on Hickman's behalf, naming the Los Angeles Philharmonic Association, the City of Los Angeles, the County of Los Angeles and the State of California as defendants. Much of the work in Hickman's matter was performed by an associate in the office

On July 17, 1998, Respondent and/or his staff sent Hickman a letter enclosing four blank discovery verification forms. Hickman had previously provided the information contained within the discovery responses. The letter requested that Hickman sign the verifications immediately and forward them to Respondent's office. Hickman complied with Respondent's request. Hickman denies that the final discovery responses were ever mailed to her.

On or about December 14, 1998, Respondent agreed to dismiss the County of Los Angeles out of the case. The attorneys for the County of Los Angeles sent Respondent a prepared dismissal which mistakenly stated that the entire action was to be dismissed. On December 28, 1998, Respondent signed the dismissal as prepared.

On January 11, 1999, Hickman's case was arbitrated. Due to some form of misunderstanding, the only party present was the Los Angeles Philharmonic Association and judgment was entered in their favor. On January 21, 1999, the arbitrator filed his award and served a copy of the award on the Respondent's office. Respondent's office did not file a Request for Trial de Novo which would have vacated the arbitrator's award.

On February 23, 1999, the arbitration award was entered as a judgment. Neither Respondent nor anyone else from his office attended the post-arbitration status conference on

March 31, 1999.

In or about late 1999, Hickman began calling Respondent's office regarding the status of her case. Between 1999 and early 2002, Hickman made several status inquiries with Respondent's office. Speaking with various members of Respondent's staff, Hickman was told that her case was still open and proceeding forward. Although Hickman made requests for Respondent to call her, Respondent's staff only provided Respondent with one of Hickman's telephone messages.

On March 20, 2002, Hickman learned, from Respondent's staff, that her case went to arbitration and that the arbitrator had ruled against her. On March 26, 2002, Hickman left a message requesting that Respondent call her. Hickman's call was not returned.

Respondent did, however, communicate with Hickman's new lawyer shortly thereafter. Respondent maintained malpractice insurance and promptly referred Hickman to his malpractice carrier. The resulting malpractice case has since settled.

#### Conclusion of Law:

By failing to monitor the associate(s) and office staff assigned to handle the Hickman action, Respondent repeatedly failed to reasonably supervise the work of his staff, in wilful violation of rule 3-110(A), Rules of Professional Conduct.

By failing to communicate significant developments which occurred in connection with Hickman's action, Respondent violated the duties set forth in Business and Professions Code section 6068(m).

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

Standard 2.6(a) states that the culpability of a member of a violation of Business and Professions Code section 6068 shall result in disbarment or suspension depending on the gravity of the offense or the harm, if any, to the victim.

In *Sanchez v. State Bar* (1976) 18 Cal.3d 280, the respondent failed to supervise his staff, allowing them to file complaints and other pleadings without his knowledge, was grossly negligent in the organization of his office so that his staff signed papers without his consent, misinformed his clients of the status of their cases and failed to calendar deadline dates. The clients' cases were dismissed as a result of Respondent's gross negligence. The respondent received 3 months suspension.

In *Sameulsen v. State Bar* (1979) 23 Cal.3d 558, the respondent failed to expeditiously

process probate proceedings by delaying the matter for five years even though the issues were not complex. Respondent failed to communicate with one of the heirs to the estate and failed to communicate with the State Bar even after promising to do so. In mitigation, the respondent had 30 years of practice without discipline. The respondent received a public reproof.

In *Stuart v. State Bar* (1985) 40 Cal.3d 838, the respondent's client's personal injury claim was dismissed by the court for respondent's failure to answer defense interrogatories. Respondent failed to communicate with his client, despite his client's numerous attempts to contact him. In aggravation, respondent had one prior. The respondent received one year stayed suspension, one year probation and 30 days actual suspension.

The instant case involves a single client matter and the Respondent has no prior record of discipline. The facts demonstrate repeated negligent conduct on Respondent's part rather than acts of malicious misconduct. Hickman recovered a significant portion of her damages through Respondent's malpractice insurance and Respondent reports to have made the necessary corrections, within his practice, to prevent a reoccurrence.

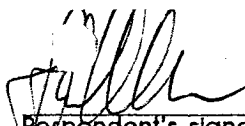
## **DISMISSALS**

The State Bar requests the Court dismiss the following in the interest of justice:

- Case no. 02-O-12538, Counts One, Two, Five and Six.



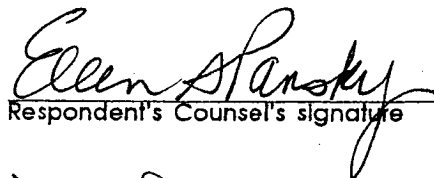
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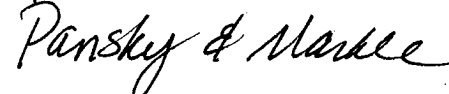
  
Respondent's signature

JERRY A. JACOBSON


print name

5-6-04  
Date

  
Respondent's Counsel's signature

By:   
ELLEN A. PANSKY  
print name

5-11-04  
Date

  
Deputy Trial Counsel's signature

GORDON L. GRENIER

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.

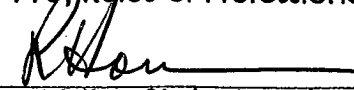
☒ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.

All references to "Probation Unit" or "Probation Unit of the Office of the Chief Trial Counsel" shall be deemed deleted and replaced with "Office of Probation."

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.

6/7/04  
Date

  
Judge of the State Bar Court  
**RICHARD A. HONN**

**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 June 11, 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 June 11, 2004**

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:

**ELLEN A. PANSKY  
PANSKY & MARKLE  
1114 FREMONT AVE.,  
S. PASADENA CA 91030-3227**

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

**GORDON L. GRENIER, Enforcement, Los Angeles**

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

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