

<p>Counsel for the State Bar THE STATE BAR OF CALIFORNIA OFFICE OF THE CHIEF TRIAL COUNSEL ENFORCEMENT JOSEPH R. CARLUCCI, No. 172309 1149 South Hill Street, 9th Floor Los Angeles, California 90015-2299 Telephone: (213) 765-1000</p>	<p>Case number(s) 02-O-12769</p> <p>kwiktag® 035 117 091</p> 	<p>(for Court's use) FILED <i>MDS</i> FEB 20 2004 STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> <p>PUBLIC MATTER</p>
<p>Counsel for Respondent James D. Lia Respondent in Propria Persona 3502 Katella St., #201 Los Alamitos, CA 90720 Phone: (562)594-5558</p>	<p>Submitted to <input checked="" type="checkbox"/> assigned judge <input type="checkbox"/> settlement judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>STAYED SUSPENSION; NO ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of JAMES D. LIA</p> <p>Bar # No. 37567</p> <p>A Member of the State Bar of California (Respondent)</p>		

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted January 11, 1966 (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 12 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 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:

See "ADDITIONAL FACTS" In attachment to Stipulation

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 _____ 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:

- 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: JAMES D. LIA (No. 37567)

CASE NUMBER(S): 02-O-12769

FACTS AND CONCLUSIONS OF LAW.

Respondent James D. Lia (hereinafter "Respondent") admits that the following facts are true and that he wilfully violated Rules of Professional Conduct, rules 1-300, 1-320, and 3-110(A).

In or about early 2001, Respondent's law office was located at 3662 Katella Ave., Suite 117, in Los Alamitos, California. Located in the same building was a paralegal service known as Budget Legal Center, which was the dba of Phillip Harris (hereinafter "Harris"), a non-attorney.

Respondent first met Harris when Harris came to Respondent's office with legal questions regarding bankruptcy and divorce law. Ultimately, Harris asked Respondent to review bankruptcy petitions that Harris had prepared for debtor clients to make sure they were properly prepared. After Respondent had reviewed many of Harris' bankruptcy pleadings free of charge, Harris told Respondent that he could no longer impose upon Respondent without paying Respondent for his time. Thereafter, Respondent agreed to accept a \$25 fee from Harris for each bankruptcy case he reviewed.

On or about January 29, 2001, Bradlee Schlieper (hereinafter "Schlieper") retained Harris' Budget Legal Center to assist him in the preparation and filing of a chapter 7 bankruptcy

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petition. At the time that Schlieper retained Budget Legal Center, Harris had Schlieper execute two separate written retainer agreements: one with Budget Legal Center and the other in the name of Respondent's law office.

The retainer agreement with Respondent was signed by Schlieper, but was not signed by Respondent. The agreement stated that Schlieper retained Respondent to represent him in a chapter 7 bankruptcy proceeding, and agreed to pay a fee of \$375 to Respondent in exchange for legal services. Respondent never gave Harris copies of his retainer agreements. Respondent never consented to, nor authorized, Harris to create a retainer agreement in Respondent's name or to present them to Harris' clients for execution. At no time relevant hereto was Respondent aware that Harris had created a retainer agreement in his name and that Schlieper had signed it.

At Harris' instruction, Schlieper paid the \$375 fee to Harris with a check made payable to Budget Legal Center.

Respondent never met, spoke, consulted or communicated with Schlieper. Schlieper only communicated with Harris. At no time did Respondent review any documentation regarding Schlieper's financial circumstances. Respondent did not perform any legal services for Schlieper. All legal work regarding Schlieper's bankruptcy case was performed by Harris, including rendering legal advice to Schlieper regarding substantive and procedural bankruptcy provisions; explaining the differences between chapter 7 and chapter 13, making exemption decisions for Schlieper, gathering financial information from Schlieper, and preparation of the bankruptcy petition. Harris' acts constituted the practice of law.

Once Harris had prepared Schlieper's bankruptcy petition, he brought it to Respondent

for his review. Respondent reviewed the petition and signed it as the attorney of record without determining whether the information contained therein was accurate or correct. Another form that Respondent signed that was filed with the bankruptcy court regarding Schlieper's petition was a Disclosure of Compensation of Attorney for Debtor form, which also indicated that Respondent was attorney of record and that he had collected a \$375 legal fee from Schlieper. By his signature on the disclosure form, Respondent attested that he had agreed not to share his compensation with any other person, except for an associate of his law firm.

After Respondent reviewed and signed Schlieper's petition, Harris paid Respondent \$25, and Harris kept the remaining \$350 of the \$375 fee Harris collected from Schlieper. Harris then filed Schlieper's chapter 7 petition and the Disclosure of Compensation of Attorney for Debtor form with the United States Bankruptcy Court.

Schlieper appeared on behalf of himself in bankruptcy court before the United States Trustee for the Central District of California (hereinafter "U.S. Trustee") for his section 341(a) meeting of creditors. Upon questioning by the U.S. Trustee regarding his attorney of record, Schlieper stated that he had never met with or talked to Respondent, and that he had dealt only with non-attorney Harris. Shortly thereafter, the U.S. Trustee filed a motion for accounting and disgorgement of fees against Respondent in Schlieper's matter.

LEGAL CONCLUSIONS

By signing Schlieper's bankruptcy petition as attorney of record when he knew that all of the legal work in preparing the petition had been performed by Harris, a non-attorney, Respondent wilfully aided and abetted a non-attorney in the unauthorized practice of law, in

violation of Rules of Professional Conduct, rule 1-300.

By splitting the \$375 attorney fee paid by Schlieper with non-attorney Harris, Respondent wilfully shared legal fees with a person is not a lawyer, in violation of Rules of Professional Conduct, rule 1-320(A).

By failing to perform any legal services in connection with the preparation of Schlieper's bankruptcy petition, Respondent intentionally or recklessly failed to perform services with competence, in violation of Rules of Professional Conduct, rule 3-110(A).

ADDITIONAL FACTS

On April 25, 2002, the hearing was held in the United States Bankruptcy Court, Central District of California, Los Angeles Division, on the U.S. Trustee's motion for an accounting and disgorgement of fees against Respondent in connection with Schlieper's bankruptcy petition.

On May 1, 2002, the bankruptcy court rendered its decision on the U.S. Trustee's motion for disgorgement and ordered that Respondent disgorge \$375 in fees to Schlieper via payment to the U.S. Trustee. Respondent promptly complied with the court's disgorgement order, despite the fact that he collected only \$25 of the \$375 fee.

The United States Bankruptcy Court then commenced disciplinary proceedings against Respondent regarding his conduct in the Schlieper matter. Respondent's disciplinary hearing was held on July 26, 2002 before a three judge panel. At the hearing, Respondent did not dispute the allegations of misconduct made against him, and testified that he ceased his objectionable practices with Harris in August 2001, prior to the commencement of any disciplinary proceedings.

On August 7, 2002, the United States Bankruptcy Court issued its Memorandum of Decision and Order in Respondent's disciplinary matter. The court found that in connection with Schlieper's bankruptcy petition Respondent engaged in fee-splitting with a non-attorney, aided and abetted the unauthorized practice of law by a non-attorney, and failed to fulfill his duties as attorney of record for Schlieper.

The court found no facts in aggravation, but deemed as mitigating factors that Respondent demonstrated remorse and candor regarding his misconduct, severed his relationship with Harris a year before the disciplinary proceeding commenced, complied with the court's fee disgorgement order, and expressed a willingness to complete all pending petitions, in which he was listed as attorney of record, on a pro bono basis.

As discipline, the court imposed a one-year suspension of Respondent's privilege to appear as an attorney at law in the United States Bankruptcy Court for the Central District of California, with the provision that Respondent would be permitted to complete, on a pro bono basis only, any bankruptcy already filed in which he was shown as attorney of record. Respondent did in fact complete those cases without charge and without any complaint from the petitioners or the court.

Respondent has served for many years as a voluntary fee dispute arbitrator for the State Bar of California, the Los Angeles County Bar Association, and the Orange County Bar Association.

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(6), was December 18, 2003.

Subsequent disclosure pursuant to Rule 133 was made in writing to Respondent on January 27, 2004.

AUTHORITIES SUPPORTING DISCIPLINE.

Standards for Attorney Sanctions for Professional Misconduct:

Standard 2.4(b) - Offenses Involving Wilful Failure To Perform Services In The Matter For Which The Member Has Been Retained.

Standard 2.10 - Offenses Involving A Wilful Violation Of A Rule of Professional Conduct Not Specified In Any Other Standard.4

Standard 1.2 (e)(i), (iii), (v), and (vii) - Applicable Mitigating Circumstances.

Date

1/28/04

Respondent's signature

[Handwritten Signature]

JAMES D. LIA

print name Respondent in Propria Persona

Date

2-2-04

N/A Respondent's Counsel's signature

[Handwritten Signature]

N/A print name

Date

JOSEPH R. CARLUCCI 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

2/18/04

Judge of the State Bar Court

[Handwritten Signature]

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 February 20, 2004, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION
AND ORDER APPROVING, filed February 20, 2004**

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

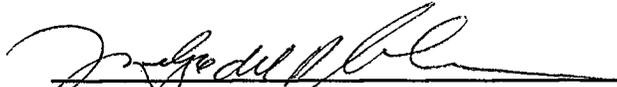
by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**JAMES DOUGLAS LIA ESQ
3502 KATELLA ST #201
LOS ALAMITOS, CA 90720**

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

Joseph R. Carlucci, Esq , Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on February 20, 2004.


Milagro del R. Salmeron
Case Administrator
State Bar Court