


Counsel for the State Bar Esther Rogers, No. 148246 Office of the Chief Trial Counsel The State Bar of California 180 Howard Street, 7th Floor San Francisco, CA 94105 (415)538-2445	Case number(s) <p style="text-align: center;">02-0-15154</p> <p style="text-align: center;">kwiktag® 031 974 740</p> 	(for Court's use) <p style="text-align: center; font-size: 1.2em;">PUBLIC MATTER</p> <p style="text-align: center; font-size: 1.5em;">FILED <i>Rm</i></p> <p style="text-align: center;">DEC 26 2003</p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
Counsel for Respondent Richard A. Hellesto 1190 Linden Drive Concord, CA 94520 (925)676-4633 (In Propria Persona)	Submitted to <input type="checkbox"/> assigned judge <input checked="" type="checkbox"/> settlement judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of <p style="text-align: center;">RICHARD A. HELLESTO</p> Bar # 61471 A Member of the State Bar of California (Respondent)		

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted December 18, 1974
(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 10 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):
 - until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
 - costs to be paid in equal amounts prior to February 1 for the following membership years:
2005, 2006 and 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."

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)] See attached

(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.
See attached
- (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 two (2) years

- 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.)

3. Actual Suspension.

A. Respondent shall be actually suspended from the practice of law in the State of California 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: _____

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. See attached
- 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. See attached
- 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: Richard A. Hellesto

CASE NUMBER(S): 01-O-2898 [02-O-15154; 03-O-3691]

FACTS AND CONCLUSIONS OF LAW.

Case No. 01-O-02898

Count One

Statement of Facts

On or about July 7, 1997, Doris Lee employed respondent to represent her regarding a worker's compensation claim pending with the Workers' Compensation Appeals Board.

In or about July, 2000, Lee moved to Mississippi and informed respondent of her new address. Between in or about August 2000 and April 2001, Lee telephoned respondent on several occasions to obtain a status update on her matter. Respondent failed to respond to any of the telephone calls and failed to provide Lee with a status update.

In or about April 2001, respondent changed his telephone number and failed to inform Lee of his new telephone number.

On or about June 11, 2001, Lee received notice that her hearing before the Workers' Compensation Appeals Board was scheduled for August 8, 2001. On or about June 11, 2001, Lee telephoned respondent at the phone number he previously provided her to discuss the hearing. Lee received a message indicating that respondent's telephone number was no longer in service.

On or about June 14, 2001, Lee sent respondent a letter via certified mail, return receipt requested, requesting a status update on her matter. Respondent executed the return receipt on or about June 19, 2001. Respondent failed to respond to the letter and failed to provide Lee with a status update.

On or about July 10, 2001, Lee wrote Judge Sauban-Chapla and informed the judge that she could not reach respondent because he had failed to respond to her June 14, 2001 letter and his telephone was disconnected. Lee requested that the court settle the matter in the event that respondent fails to appear at the August 8, 2001 hearing.

On or about August 8, 2001, respondent appeared at the hearing and Lee's matter settled.

Conclusions of Law

Respondent wilfully violated Business and Professions Code section 6068(m) by failing

to respond to Lee's telephone calls and letter requesting a status update and by failing to inform Lee that he had changed his telephone number.

Case No. 02-O-15154

Count Two

Statement of Facts

On or about November 30, 1999, Lois Hall employed respondent to represent her regarding various worker's compensation claims. On or about August 7, 2000, respondent and Hall entered into a fee agreement required by the Department of Industrial Relations for cases pending before the Workers' Compensation Appeals Board.

Prior to April 5, 2001, respondent presented the State Compensation Insurance Fund with a Notice of Representation for one of Hall's claims. However, he failed to provide State Compensation Insurance Fund with a Notice of Representation for Hall's other claims.

On or about April 5, 2001, Nuntawan Camyre, a claims representative with State Compensation Insurance Fund, sent respondent a letter requesting that respondent provide her with a Notice of Representation for all of Hall's claims. The letter stated that they could not discuss settlement until respondent returned the Notice of Representation for all of Hall's claims. Subsequently, respondent did not respond to the letter and did not provide State Compensation Insurance Fund with the Notice of Representation for all of Hall's claims.

On or about May 11, 2001, Camyre sent respondent another letter requesting that respondent provide her with a Notice of Representation for all of Hall's claims. The letter notified respondent that Camyre could not settle Hall's claims until Camyre received the Notice of Representation. It also stated that after Camyre received the Notice of Representation, she would contact Hall's employer for settlement authority. Subsequently, respondent did not respond to the letter and did not provide State Compensation Insurance Fund with the Notice of Representation for all of Hall's claims.

On or about June 15, 2001, Hall sent a letter to David Applen, the presiding judge of the Worker's Compensation Appeals Board, inquiring how to proceed since respondent had failed to provide the State Compensation Insurance Fund with the required Notice of Representation.

Between approximately October 2, 2000 and approximately June 2001, Hall telephoned respondent on several occasions and left a message for respondent requesting that he provide her with a status update on her matter. Respondent failed to respond to the telephone calls and failed to provide a status update.

In or about July 2001, Hall telephoned respondent and received a recording that his phone number was disconnected. Respondent failed to notify Hall that he had changed his telephone number.

In or about July 2001, Hall sent respondent a letter notifying him that she was terminating his services. Respondent received the letter soon after it was sent. On or about August 2, 2001, respondent returned Hall's file to her. On or about August 2, 2001, Hall employed new counsel to represent her regarding her worker's compensation claims.

Conclusions of Law

Respondent wilfully violated Business and Professions Code section 6068(m) by failing to respond to Hall's telephone calls requesting a status update and by failing to inform Hall that he had changed his telephone number.

Case No. 03-O-3691

Count Three

Statement of Facts

Effective October 14, 2001, the Supreme Court, order number S098926, suspended respondent for six months, stayed, and placed him on probation for two years, subject to conditions of probation. Respondent's probation period was October 14, 2001 through October 14, 2003. Among others, the probation conditions required respondent to:

- a. Report to the Probation Unit within ten days any change to his membership records information, including changes to his telephone number.
- b. Submit quarterly reports to the Probation Unit on each January 10, April 10, July 10 and October 10 for the period of probation.
- c. Within one year of the effective date of the discipline, or by October 14, 2002, provide satisfactory proof of passage to the Probation Unit of attendance of Ethics School.
- d. Within one year of the effective date of the discipline, or by October 14, 2002, complete three hours of MCLE on law office management and furnish satisfactory proof of completion to the Probation Unit.

On or about October 31, 2002, Probation Deputy Shuntinee Brinson sent respondent a letter setting forth a summary of his probation conditions.

On or about October 29, 2002, Brinson telephoned respondent at his membership records telephone number and received a message that the number had been changed. Brinson telephoned the new number and received a message indicating that the number no longer was in service. Respondent failed to notify the Probation Unit that he had changed his official membership records telephone number.

Respondent also failed to submit his quarterly report due on January 10, 2002 until March 13, 2002, failed to submit his quarterly report due April 10, 2002 until April 18, 2002.

Respondent also failed to attend Ethics School by October 14, 2002 or at all and failed to complete three hours of MCLE on law office management by October 14, 2002 or at all.

Conclusions of Law

Respondent wilfully violated Business and Professions Code section 6068(k) by failing to notify the Probation Unit that he had changed his telephone number, failing to submit his January 10, 2002 report until March 13, 2002, failing to submit his April 10, 2002 report until April 18, 2002, failing to attend Ethics School by October 14, 2002 and failing to complete three hours of MCLE on law office management by October 14, 2002.

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(6), was November 3, 2003.

AGGRAVATING CIRCUMSTANCES.

Prior Record. Standard 1.2(b)(i).

SO15017. Effective August 22, 1990, respondent was suspended for three years, stayed, and placed on probation for four years, including an actual 30 day suspension.

SO15017. Effective June 10, 1992, respondent was actually suspended for 30 days for failure to comply with certain conditions attached to the discipline effective August 22, 1990.

SO98926. Effective September 14, 2001, respondent was suspended for six months, stayed, and placed on probation for two years for failure to comply with conditions attached to an Agreement In Lieu of Discipline.

MITIGATING CIRCUMSTANCES.

Candor and Cooperation. Standard 1.2(e)(v). Respondent agreed to the imposition of discipline without requiring a hearing.

MPRE EXEMPTION

Respondent already has been required to take and pass the MPRE as a result of the discipline effective October 14, 2001. Respondent currently is on suspension for failure to pass the MPRE. Respondent shall only be required to take and pass the MPRE in connection with the order effective October 14, 2001. Therefore, he is not required to take and pass the MPRE in connection with this record of discipline.

ETHICS SCHOOL

Respondent already has been required to attend Ethics School as a result of the discipline effective October 14, 2001. Respondent shall only be required to take and pass Ethics School one time in connection with the discipline effective October 14, 2001 and this record of discipline. As a result of this stipulation, the time in which respondent must attend Ethics School is extended until one year after the effective date of this discipline. Therefore, respondent must provide to the Probation Unit satisfactory proof of attendance at Ethics School and must pass the test given at the end of Ethics School within one year of the effective date of this discipline.

11-21-03
Date

Richard A. Hellesto
Respondent's signature

RICHARD A. HELLESTO
print name

Date

Respondent's Counsel's signature

print name

11/24/03
Date

Esther Rogers
Deputy Trial Counsel's signature

ESTHER ROGERS
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.

See attached modifications.

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.)

12/26/03
Date

John M. Benke
Judge of the State Bar Court

IN THE MATTER OF RICHARD A. HELLESTO
Case Nos. 01-O-02898; 02-O-15154; 03-O-03691-JMR

COURT'S MODIFICATIONS TO STIPULATED FACTS,
CONCLUSIONS OF LAW AND DISPOSITION

1. On page 1, the caption shall be modified to include the following State Bar Court case numbers: 01-O-02898 and 03-O-03691.
2. On page 1, under paragraph (A)(3), the Stipulation and order consist of 11 pages, including the court's modifications.
3. On page 9, under Aggravating Circumstances, Respondent's three records of prior discipline consistent of:
 - a. Supreme Court Case No. S015017 (State Bar Court Case No. 86-O-10601), effective September 21, 1990.
 - b. Supreme Court Case No. S015017 (State Bar Court Case No. 91-P-06089), effective July 10, 1992.
 - c. Supreme Court Case No. S098926 (State Bar Court Case No. 95-O-18637), effective October 14, 2001.

Dated: December 26, 2003


JOANN M. REMKE
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 San Francisco, on December 26, 2003, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION
AND ORDER APPROVING**

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 San Francisco, California, addressed as follows:

**RICHARD ALVIN HELLESTO
1190 LINDEN DR
CONCORD CA 94520**

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

ESTHER ROGERS, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **December 26, 2003**.



Bernadette C. O. Molina
Case Administrator
State Bar Court