


<b>Counsel for the State Bar</b> MARK HARTMAN, No. 114925 STATE BAR OF CALIFORNIA 180 Howard Street San Francisco, CA 94105  Telephone: (415) 538-2000	<b>Case number(s)</b>  03-H-04989  kwiktag® 022 603 788 	<b>(for Court's use)</b>  <b>PUBLIC MATTER</b>  <b>FILED</b> <i>fr</i>  DEC 22 2004  STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
<b>Counsel for Respondent</b> MICHAEL THOMAS DELL'OSSO No. 103439 120 East 12th Street Tracy, CA 95376  Telephone: (207) 833-2280 IN PROPRIA PERSONA	<b>Submitted to</b> <input checked="" type="checkbox"/> assigned judge <input 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	
<b>In the Matter of</b>  MICHAEL THOMAS DELL'OSSO Bar # 103439 A Member of the State Bar of California (Respondent)		

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted June 10, 1982  
(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 8 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 that

- (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 02-0-14361; 02-0-14363; 02-0-15179

(b) ☒ Date prior discipline effective May 9, 2003

(c) ☒ Rules of Professional Conduct/ State Bar Act violations: Two counts of violation of

Section 6068, subdivision (m) of the Business and Professions Code. Three counts  
of violation of section 6068, subdivision (i) of the Business and Professions  
Code. One count of violation of rule 3-700(D)(2) of the Rules of Professional  
Conduct.

(d) ☒ degree of prior discipline Private Reproof.

(e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below or under "Prior Discipline".

(2) ☐ Dishonesty: Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.

(3) ☐ Trust Violation: Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.

(4) ☐ Harm: Respondent's misconduct harmed significantly a client, the public or the administration of justice.

- (5) ☐ Indifference: Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) ☐ Lack of Cooperation: Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) ☐ Multiple/Pattern of Misconduct: Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8) ☐ No aggravating circumstances are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.

- (1) ☐ No Prior Discipline: Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) ☐ No Harm: Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☒ Candor/Cooperation: Respondent displayed spontaneous candor and cooperation to the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) ☐ Remorse: Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ Restitution: Respondent paid \$ \_\_\_\_\_ on \_\_\_\_\_ in restitution to \_\_\_\_\_ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ Delay: These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ Good Faith: Respondent acted in good faith.
- (8) ☐ Emotional/Physical Difficulties: At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) ☐ Severe Financial Stress: At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ Family Problems: At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ Good Character: Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.

(12) ☐ Rehabilitation: Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.

(13) ☐ No mitigating circumstances are involved.

Additional mitigating circumstances:

D. Discipline:

(1) ☐ 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 one (1) year.

(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:
- |   |   |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions         | <input type="checkbox"/> Financial Conditions             |
- (11) ☐ Other conditions negotiated by the parties:

In the Matter of  <b>MICHAEL THOMAS DELL'OSSO,</b> <b>No. 103439,</b>  A Member of the State Bar.	<b>Case No. 03-H-04989</b>  <b>STIPULATION RE FACTS,</b> <b>CONCLUSIONS OF LAW, AND</b> <b>DISPOSITION</b>
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## **FACTS**

Respondent Michael Thomas Dell'Osso ("respondent") was privately reprovved by an order ("order") filed on May 9, 2003, in State Bar cases number 02-O-14361, 02-O-14363, and 02-O-15179 ("the prior cases"). The order approved respondent's stipulation regarding facts, conclusions of law, and disposition in the prior cases.

The order required that respondent provide the Probation Unit with quarterly compliance reports by July 10, 2003; October 10, 2003; January 10, 2004; and April 10, 2004. Respondent did not provide any of the required quarterly compliance reports.

The order required that respondent provide the Probation Unit with a final compliance report by May 8, 2004. Respondent did not provide the required final compliance report.

The order required that by May 8, 2004, respondent provide satisfactory proof to the Probation Unit of having attended Ethics School and passed the test given at the end of the session of Ethics School he attended. Respondent did not provide this required proof of attendance of Ethics School and passage of the test given at the end of Ethics School.

The order required that by May 8, 2004, respondent provide satisfactory proof to the Probation Unit of having passed the Multistate Professional Responsibility Examination ("MPRE"). Respondent did not provide this required proof of passage of the MPRE.

## **CONCLUSIONS OF LAW**

Respondent wilfully violated rule 1-110 of the Rules of Professional Conduct by failing to comply with the conditions attached to his private reproof in the prior cases as follows: he failed to provide any quarterly compliance reports, a final compliance report, proof of attendance of Ethics School and passage of the test given at the end of Ethics School, and proof of passage of the MPRE.

## **DATE OF DISCLOSURE OF ANY PENDING INVESTIGATION/PROCEEDING**

On November 16, 2004, the State Bar advised respondent in a letter of any pending investigation or proceeding not resolved by this stipulation. This letter was sent by FAX.

## **COSTS OF DISCIPLINARY PROCEEDINGS**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed him that the estimated prosecution cost of case number 03-H-04989 ("the current case") is approximately \$2,296.00. Respondent acknowledges that \$2,296.00 is an estimate only and that it does not include any State Bar Court costs in a final cost assessment. Respondent further acknowledges that if this stipulation is rejected or if relief from this stipulation is granted, the cost of the current case may increase because of the cost of further proceedings.

## **AUTHORITIES SUPPORTING DISCIPLINE**

See the Rules Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct, standards 1.3, 1.6, 1.7, and 2.9.

Date 11-19-04

Respondent's signature

MICHAEL THOMAS DELL'OSSO  
print name

Date

Respondent's Counsel's signature

print name

Date 11/24/04

Mark Hartman  
Deputy Trial Counsel's signature

MARK HARTMAN  
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.

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.

Date

12/22/04

John 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 22, 2004, 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:

**MICHAEL THOMAS DELL'OSSO**  
**120 E 12TH ST**  
**TRACY CA 95376**

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

**MARK HARTMAN, Enforcement, San Francisco**

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **December 22, 2004.**



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**Bernadette C. O. Molina**  
Case Administrator  
State Bar Court