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| State Bar Court of California | | |
|--|---|---|
| Hearing Department <input type="checkbox"/> Los Angeles <input checked="" type="checkbox"/> San Francisco | | |
| Counsel for the State Bar Esther Rogers Deputy Trial Counsel 180 Howard Street, 7th Floor San Francisco, CA 94105 (415) 538-2445 Bar # 148246 | Case number(s) 03-0-01775 PUBLIC MATTER | (for Court's use) FILED DEC 13 2006 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO |
| <input checked="" type="checkbox"/> Counsel for Respondent <input type="checkbox"/> In Pro Per, Respondent Jonathan I. Arons 101 Howard Street #310 San Francisco, CA 94105 (415) 957-1818 Bar # 111257 | Submitted to <input checked="" type="checkbox"/> assigned judge <input 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 JUSTIN M. GINGERY Bar # 204217 A Member of the State Bar of California (Respondent) | | |

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted December 8, 1999
(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) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) 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.

(Do not write above this line.)

(8) 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:
2008 and 2009
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
- costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
- costs entirely waived

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 a separate attachment entitled "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.

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- (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 with 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.
See attached
- (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.

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- (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 must 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 as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following: _____
- (b) The above-referenced suspension is stayed.

(2) **Probation:**

Respondent must be placed on probation for a period of two (2) years
which will commence upon the effective date of the Supreme Court order in this matter.
(See rule 953, Calif. Rules of Ct.)

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(3) Actual Suspension:

- (a) Respondent must be actually suspended from the practice of law in the State of California 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 as set forth in the Financial Conditions form attached to this stipulation.
 - 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 must 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 must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), 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) Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must 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. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must 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.

- (6) Respondent must be assigned a probation monitor. Respondent must 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 must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation 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.

(Do not write above this line.)

- (8) Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation 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. Reason: _____
- (9) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (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 |

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation 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. Reason: _____
- (2) **Rule 955, California Rules of Court:** Respondent must comply with the requirements of rule 955, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) **Conditional Rule 955, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 955, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension: _____
- (5) **Other Conditions:**
- See attached**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Justin M. Gingery

CASE NUMBER(S): 03-O-01775

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/or Rules of Professional Conduct:

Count One

Statement of Facts

Prior to January 1, 2001, respondent practiced primarily personal injury law. Respondent's clients frequently had medical liens filed against their settlement proceeds by medical providers.

Prior to January 1, 2001, respondent opened attorney client trust account number 0735429359 ("trust account") at Wells Fargo. Prior to January 1, 2001, respondent also maintained a general business account at Wells Fargo. Between in or about January 1, 2001 and at least in or about December 31, 2002, respondent deposited settlement proceeds into his trust account.

After depositing the settlement proceeds in the trust account, respondent usually wrote two checks from his trust account for each client. The first check was payable to the client and represented the client's share of his settlement. The second check was payable to respondent's general account and included both respondent's attorneys fees and the funds respondent was holding in trust to pay off the medical liens. After transferring the medical lien funds to his general account, respondent paid the medical lien holders with checks from his general business account.

By transferring the entrusted medical lien provider funds into his general business account, respondent failed to maintain in his trust account the medical lien funds he was holding in trust until he paid them on behalf of the client.

Conclusions of Law

By failing to maintain the medical lien funds in trust until paid out on behalf of his clients, respondent willfully violated Rules of Professional Conduct, Rule 4-100(A).

Count Two

Statement of Facts

Prior to in or about June 2000, respondent established a law practice in Sacramento, California. In or about June 2000, respondent opened up another law practice in Chico, California. Respondent resided in Sacramento during all relevant times. Respondent's father, Richard Gingery, resided in Chico during all relevant time periods. Respondent employed Richard Gingery as his "Senior Administrator" in the Chico office.

Between in or about June 2000 and December 2002, respondent permitted Richard Gingery to run the Chico office with limited supervision. Without respondent's supervision, respondent permitted Richard Gingery to interview new clients, sign the medical liens on respondent's behalf, negotiate settlements with insurance companies, discuss settlement with the clients, collect the settlement fees, deposit the settlement fees in respondent's trust account and give respondent instructions on how to distribute the settlement proceeds. By so doing, Richard Gingery practiced law.

Several insurance adjusters believed that Richard Gingery was an attorney. In several instances, the insurance companies wrote checks payable to "Richard Gingery, Attorney." Respondent never advised the insurance companies that Richard Gingery was not a lawyer and never instructed the insurance companies to issue the checks to him, as the attorney, instead of Richard Gingery, a non-lawyer.

As of on or about August 2002, Respondent contends he took the following steps to ensure that Richard Gingery no longer practiced law: Respondent spent three to four days a week at the Chico office and subsequently closed the Chico office. Every aspect of Richard Gingery's work is supervised by respondent or his two partners. Form letters are now sent to new clients, insurance adjusters or anyone who mistakes Richard Gingery as an attorney informing them that he is not an attorney. Notices are given and signed at client intakes informing clients who in the office are attorneys and who are staff. All offers in negotiation and counter offers are developed, created and agreed upon by the partners. All questions and concerns from clients, clients' doctors and adjusters are conveyed to an attorney before a response is given.

Conclusions of Law

By permitting Richard Gingery to practice law, respondent aided and abetted the unauthorized practice of law in wilful violation of Rules of Professional Conduct, rule 1-300(A).

MITIGATING CIRCUMSTANCES

Standard 1.2(e)(ii.) Respondent acted in good faith because he believed he was helping his clients.

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

OTHER CONDITIONS NEGOTIATED BY THE PARTIES:

CLIENT TRUST ACCOUNTING SCHOOL

Within one year of the effective date of this discipline, respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

ETHICS SCHOOL AND CLIENT TRUST ACCOUNTING SCHOOL

If respondent completes Ethics School and/or Client Trust Accounting School between October 2006 and the effective date of this discipline, he will not be required to attend the session(s) he completed as a condition of probation. Instead, he must supply the Office of Probation satisfactory proof of attendance at the session(s) and passage of the test given at the end of the session(s) with his first quarterly report.

LIMITATION OF ACTIVITIES OF RESPONDENT'S EMPLOYEES:

Respondent agrees that he will not permit his non-attorney employees, agents or independent contractors to engage in the following conduct proscribed by Rules of Professional Conduct, Rule 1-311:

- (1) Render legal consultation or advice to clients;
- (2) Appear on behalf of a client in any hearing or proceeding or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, commissioner, or hearing officer;
- (3) Appear as a representative of the client at a deposition or other discovery matter;

- (4) Negotiate or transact any matter for or on behalf of the client with third parties;
- (5) Receive, disburse or otherwise handle the client's funds; or
- (6) Engage in activities which constitute the practice of law.

Respondent agrees that in each quarterly report he will certify that he has not permitted any non-attorney employee, agent or independent contractor to engage in the above-listed conduct proscribed by Rules of Professional Conduct, rule 1-311.

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was October 30, 2006.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of October 30, 2006, the estimated prosecution costs in this matter are approximately \$5,000. Respondent acknowledges that this figure is an estimate only. 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.

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| In the Matter of JUSTIN M. GINGERY | Case number(s): 03-0-01775 |
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SIGNATURE OF THE PARTIES

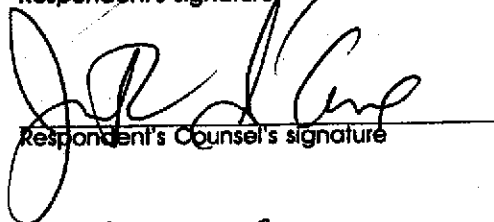
By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law and Disposition.

11/21/2006
Date


Respondent's signature

JUSTIN M. GINGERY
Print name

November 21, 2006
Date


Respondent's Counsel's signature

JONATHAN I. ARONS
Print name

11/21/06
Date


Deputy Trial Counsel's signature

ESTHER ROGERS
Print name

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| In the Matter of JUSTIN M. GINGERY | Case number(s): 03-O-01775 |
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ORDER

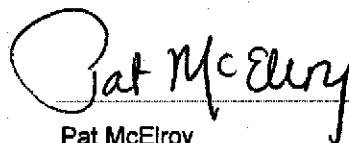
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- 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.
- All Hearing dates are vacated.

1. On page 5, section E (1)--the "xx" inserted in front of the box is deleted.

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.)**

12/12/2006
Date



Pat McElroy
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 of California. 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 13, 2006, 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:

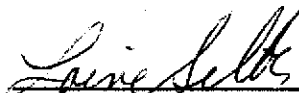
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

**JONATHAN IRWIN ARONS
LAW OFC JONATHAN I ARONS
101 HOWARD ST #310
SAN FRANCISCO, CA 94105**

- 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 13, 2006.**



Laine Silber
Case Administrator
State Bar Court