

(Do not write above this line.)

State Bar Court of California
Hearing Department
Los Angeles

Counsel For The State Bar

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Case Number (s)
03-O-02545
03-O-04082
04-O-13606
05-O-02475
05-O-03032

(for Court's use)

FILED

NOV 09 2006

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

PUBLIC MATTER

Bar # 228256

Counsel For Respondent

Susan Lynn Margolis
2000 Riverside Drive
Los Angeles, California 90039
Telephone: (323)953-8996

Submitted to: Settlement Judge

Bar # 104629

In the Matter Of:
Robert M. Ball

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

Bar # 138482

STAYED SUSPENSION; NO ACTUAL SUSPENSION

A Member of the State Bar of California
(Respondent)

PREVIOUS STIPULATION REJECTED

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 7, 1988.
- (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 consists of 12 pages, not including the order.
- (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."



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- (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.
- (8) 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 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.
- (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.
- (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

Respondent has no prior record of discipline during eighteen years of practice.

***Also see Section V of the Attachment to Stipulation re Facts, Conclusions of Law and Disposition.**

D. Discipline:

- (1) **Stayed Suspension:**

(Do not write above this line.)

- (a) Respondent must be suspended from the practice of law for a period of **sixty 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:

The above-referenced suspension is stayed.

(2) **Probation:**

Respondent is placed on probation for a period of **one year**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 953, California Rules of Court)

E. Additional Conditions of Probation:

- (1) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2) 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.
- (3) 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.
- (4) 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.

- (5) 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.
- (6) 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.

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004.)

Stayed Suspension

(Do not write above this line.)

- (7) 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 State Bar Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason:
- (8) 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.
- (9) The following conditions are attached hereto and incorporated:
- | | |
|---|--|
| <input type="checkbox"/> Substance Abuse Conditions | <input checked="" 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 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. Reason:
- (2) **Other Conditions:**

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In the Matter of
Robert M. Ball

Case number(s):
03-O-02545, 03-O-04082, 04-O-13606, 05-O-02475,
05-O-03032

A Member of the State Bar

Law Office Management Conditions

- a. Within 90 days/ months/ years of the effective date of the discipline herein, Respondent must develop a law office management/organization plan, which must be approved by the Office of Probation. This plan must include procedures to (1) send periodic reports to clients; (2) document telephone messages received and sent; (3) maintain files; (4) meet deadlines; (5) withdraw as attorney, whether of record or not, when clients cannot be contacted or located; (6) train and supervise support personnel; and (7) address any subject area or deficiency that caused or contributed to Respondent's misconduct in the current proceeding.
- b. Within days/ months/ years of the effective date of the discipline herein, Respondent must submit to the Office of Probation satisfactory evidence of completion of no less than hours of Minimum Continuing Legal Education (MCLE) approved courses in law office management, attorney client relations and/or general legal ethics. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for attending these courses (Rule 3201, Rules of Procedure of the State Bar.)
- c. Within 30 days of the effective date of the discipline, Respondent must join the Law Practice Management and Technology Section of the State Bar of California and pay the dues and costs of enrollment for year(s). Respondent must furnish satisfactory evidence of membership in the section to the Office of Probation of the State Bar of California in the first report required.

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**Attachment to Stipulation Re Facts, Conclusions of Law and Disposition
in the Matter of Robert M. Ball**
Case nos. 03-O-02545, 03-O-04082, 04-O-13606, 05-O-02475, 05-O-03032

I. Facts and Conclusions of Law:

Wright case

Facts:

1. In late 2001, Michael Wright ("Wright") met with Respondent to discuss legal representation in two separate matters: a legal malpractice claim, and a claim for defamation and interference with a prospective business advantage. After discussing the matters, Respondent agreed to represent Wright in both cases at a rate of \$300 per hour and \$3,000 in advanced legal fees.

2. On May 23, 2002, the court scheduled a status conference for July 29, 2002, in the Wright action. On May 23, 2002, the court served notice of the status conference on Respondent and he received the notice.

3. On July 29, 2002, due to a calendaring mistake involving a client with a similar name, Respondent failed to appear at the status conference.

4. On July 29, 2002, the court continued the status conference to September 30, 2002. Thereafter, opposing counsel served notice of the September 30, 2002 continued status conference on Respondent and he received the notice.

5. On September 30, 2002, Respondent failed to appear for the continued status conference. On September 30, 2002, the court scheduled an order to show cause re dismissal ("OSC") for November 27, 2002, because of Respondent's failure to appear at the September 30, 2002 continued status conference. On September 30, 2002, the court served notice of the November 27, 2002 OSC on Respondent and he received the notice.

6. On November 25, 2002, Respondent signed a substitution of attorney and provided it to Wright's new attorney Vincent Davis ("Davis").

7. On November 27, 2002, Davis filed the substitution of attorney with the court and the court discharged the OSC.

Legal Conclusions:

8. By failing to appear at the July 29, 2002 and September 30, 2002 status conferences, Respondent acted in willful violation of Rules of Professional Conduct, rule 3-110(A).

Montgomery Case

Facts:

9. On January 26, 2000, Vita Montgomery ("Montgomery") employed Respondent to represent her in an appeal pending before the Civil Service Commission ("Montgomery matter"). Montgomery had filed an appeal with the Civil Service Commission alleging that she was wrongfully terminated by her employer, the City of Los Angeles. Respondent told Montgomery that he would represent her for \$2,000 in advanced legal fees. On this day, Montgomery paid Respondent \$2,000

in advanced legal fees for his services and \$250 for the initial consultation. Montgomery told respondent at the outset that she wanted her job back.

10. Loyst Fletcher ("Fletcher"), an associate attorney in Respondent's law office initially handled Montgomery's case. In April 2001, Fletcher informed Montgomery that the City of Los Angeles had offered to resolve this matter by allowing Montgomery to return to work. Montgomery then told Fletcher that she had changed her mind and was not interested in returning to work because of the way that she was mistreated by the City of Los Angeles.

11. On April 23, 2001, Fletcher sent a letter to the Civil Service Commission indicating that Montgomery did not want to return to work and would be forwarding a demand soon.

12. In May 2001, Fletcher informed Montgomery that he no longer worked in Respondent's law firm and that Respondent would continue handling her case.

13. Thereafter Respondent failed to communicate with Montgomery about the status of her case.

14. After failing to receive any communications from Respondent, in November 2002, Montgomery called Respondent to discuss her case. Respondent and Montgomery discussed that her case had been administratively closed. Respondent informed Montgomery that he was going to consult with a specialist who assists employees in civil service matters later that day to discuss how to revive her case, and that Respondent would call her back that same night after speaking with the specialist. Respondent did not call Montgomery.

15. After failing to receive any communications from Respondent, in March 2003, Montgomery called Respondent to inquire about her case. Respondent told her that he would look at her file and call the specialist, and then he would call her back. Respondent did not get back to Montgomery.

16. On October 8, 2003, the State Bar opened an investigation, case no. 03-O-04082, pursuant to a complaint filed by Montgomery ("Montgomery complaint").

17. On November 17, 2003, a State Bar Investigator wrote to Respondent regarding the Montgomery complaint. On December 8, 2003, the investigator wrote to Respondent again regarding the Montgomery complaint.

18. Both the November 17, 2003 and December 8, 2003 letters were placed in sealed envelopes addressed to Respondent at his State Bar of California membership records address. The letters were mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business on or about the date on each letter. The United States Postal Service did not return the investigator's letters as undeliverable or for any other reason. Respondent received these letters.

19. The investigator's letters requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Montgomery complaint. Respondent did not respond to the investigator's letters or otherwise communicate with the investigator.

Legal Conclusions:

20. By failing to respond to Montgomery's telephone calls, Respondent failed to respond to a client's reasonable status inquiries in violation of Business and Professions Code, section 6068(m).

21. By not providing a written response to the allegations in the Montgomery complaint or otherwise cooperating in the investigation of the Montgomery complaint, Respondent failed to cooperate in a disciplinary investigation in violation of Business and Professions Code, section 6068(i).

II. Supporting Authority:

Standard 2.4(b) of the Standards For Attorney Sanctions For Professional Misconduct states:

"Culpability of a member of wilfully failing to perform services in an individual matter or matters not demonstrating a pattern of misconduct or culpability of a member of wilfully failing to communicate with a client shall result in reproof or suspension depending upon the extent of the misconduct and the degree of harm to the client."

Standard 2.6 addresses violations of Business and Professions Code section 6068 and mandates "disbarment or suspension depending on the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3."

Standard 1.3 sets forth the purposes of discipline as follows: "the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession. Rehabilitation of a member is a permissible object of a sanction imposed upon the member but only if the imposition of rehabilitative sanctions is consistent with the above-stated primary purposes of sanctions for professional misconduct."

III. Dismissals:

The parties respectfully request that the Court dismiss the following in the interest of justice: Counts 2, 3, 4, 5, 7, 9, 10, 11, 12, 13, and 14.

IV. Estimate of Costs:

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of October 24, 2006, the estimated prosecution costs in this matter are approximately \$5,120.45. 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.

V. Additional Mitigating Circumstances:

Respondent asserts that he would testify as follows were respondent called to testify in this matter:

Mr. Ball is a 1988 graduate of the University of Southern California Gould School of Law and Economics where he finished near the top of his class. Upon graduation he worked for Paul Hastings Janofsky & Walker in Los Angeles, one of the largest law firms in the country.

He has been in practice for 18 years and has no prior record of discipline. He is a respected professional in the legal community. He has received many awards, including the United States Equal Employment Opportunity Commission (EEOC) Los Angeles District Office Director's Award in appreciation and recognition of Distinguished Public Service, the Association of Black Personnel in City Government Appreciation Award, and the Coalition for Employment and Economic Development Appreciation Award, to name a few. He is a member of the California State Bar criminal, labor, and employment law sections.

He made headlines in the case of *Degrate v. Eaton Corporation* where he won a verdict of close to \$1.25 million for a homeless man suing his employer after taking the case just a few days before trial. This accomplishment was featured on NBC Dateline and in numerous newspapers and magazines.

He has also created new law in his field, such as in the landmark California Supreme Court decision of *Fermino v. Fedco* (1994) 7 Cal.4th 701, which expanded the rights of all California employees to sue employers and set the standard for employer-employee relationships in the California workplace.

In another decision, *Schifando v. City of Los Angeles* (2003) 31 Cal. 4th 1074, he established the rights of all Californians who work for state or local government to pursue statutory claims without being required to go through employer red tape.

He is currently wrapping up a multi-million dollar settlement in a class action suit on behalf of LAUSD bus drivers.

Mr. Ball has received national exposure for his representation of clients and has been featured on Dateline NBC as well as being a guest on the Today Show, Larry King Live, Good Morning America, CBS This Morning, as well as on local television and radio news. He was a commentator during the O.J. Simpson trial. Articles about his cases have appeared in USA Today, the Los Angeles Times, the Wall Street Journal, the Daily Journal, Newsweek, Time, and Jet Magazine, as well as other publications.

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In the Matter of ROBERT M. BALL	Case number(s): 03-0-02545, 03-004082, 04-0-13606, 05-0-02475, and 05-0-03032
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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.

10/24/06
Date

NT-B
Respondent's signature

ROBERT M. BALL
Print name

11/1/06
Date

[Signature]
Respondent's Counsel's signature

Susan Lynn Margolis
Print name

11/2/06
Date

[Signature]
Deputy Trial Counsel's signature

CHRISTINE SOHRADA
Print name

(Do not write above this line.)

In the Matter of ROBERT M. BALL	Case number(s): 03-0-02545, 03-004082, 04-0-13606, 05-0-02475, and 05-0-3032
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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.

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.)

11/02/06
Date


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 Los Angeles, on November 9, 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:

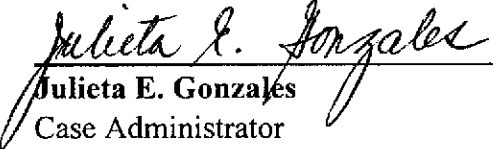
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**SUSAN L MARGOLIS ATTORNEY AT LAW
MARGOLIS & MARGOLIS LLP
2000 RIVERSIDE DR
LOS ANGELES, CA 90039**

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

Christine A. Souhrada, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **November 9, 2006**.



Julieta E. Gonzales
Case Administrator
State Bar Court