State Bar Court of the State Bar of California
Hearing Department ☒ Los Angeles ☐ San Francisco

ORIGINAL

Counsel for the State Bar	Case number(s)	(for Court's use)
THE STATE BAR OF CALIFORNIA OFFICE OF THE CHIEF TRIAL COUNSEL ERIN McKEOWN JOYCE, NO. 149946 1149 SOUTH HILL STREET LOS ANGELES, CALIFORNIA 90015 TELEPHONE: 213.765.1356	03-O-03810 NOT FOR PUBLICATION NOT FOR PUBLICATION kwiktag® 035 117 166	PUBLIC MATTER FILED SEP 23 2004 STATE BAR COURT CLERKS OFFICE LOS ANGELES
Counsel for Respondent TIMOTHY L. WILKERSON, NO. 128211 POST OFFICE BOX 440463 AURORA, COLORADO 80044-0463 TELEPHONE: 720.839.0434 IN PROPRIA PERSONA	Submitted to ☒ assigned judge ☐ settlement judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING REPROVAL ☒ PRIVATE ☐ PUBLIC ☐ PREVIOUS STIPULATION REJECTED	
In the Matter of TIMOTHY WILKERSON, NO. 128211 Bar # 55738 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 17, 1987 (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 11 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 reproval)
☒ case ineligible for costs (private reproval)
☐ 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."

(Stipulation form approved by SBC Executive Committee 10/16/00) Reprovals

(8) The parties understand th

(a) A private reproval 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 inquires and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproval 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 reproval 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 reproval 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 _____

(b) ☐ Date prior discipline effective _____

(c) ☐ Rules of Professional Conduct/ State Bar Act violations: _____

_____

_____

(d) ☐ degree of prior discipline _____

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

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

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

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

(5) ☐ Indifference: Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

(6) ☐ Lack of Cooperation: Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.

(7) ☐ Multiple/Pattern of Misconduct: Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.

(8) ☒ No aggravating circumstances are involved.

Additional aggravating circumstances:

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

(1) ☒ No Prior Discipline: Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.

(2) ☐ No Harm: Respondent did not harm the client or person who was the object of the misconduct.

(3) ☐ Candor/Cooperation: Respondent displayed spontaneous candor and cooperation to the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.

(4) ☐ Remorse: Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.

(5) ☐ Restitution: Respondent paid $ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.

(6) ☐ Delay: These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.

(7) ☐ Good Faith: Respondent acted in good faith.

(8) ☐ Emotional/Physical Difficulties: At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.

(9) ☐ 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 reproval (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 reproval (check applicable conditions, if any, below)

E. Conditions Attached to Reproval:

(1) ☒ Respondent shall comply with the conditions attached to the reproval for a period of one (1) year.

(2) ☒ During the condition period attached to the reproval, 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 reproval. 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 reproval 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 reproval.

(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 reproval.

☐ No MPRE ordered.

(10) ☐ The following conditions are attached hereto and incorporated:

☐ Substance Abuse Conditions ☐ Law Office Management Conditions

☐ Medical Conditions ☐ Financial Conditions

(11) ☐ Other conditions negotiated by the parties:

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSION OF LAW AND DISPOSITION

IN THE MATTER OF: TIMOTHY LEE WILKERSON

CASE NUMBERS: 03-O-03810

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.

Case No. 03-O-03810 Rule of Professional Conduct 3-700(D)(1) – Failure to Release File

In early 2002, Derek Bishop employed Respondent to represent him in a bankruptcy matter. Bishop paid Respondent $200.00 to handle his matter, in addition to providing home improvement services to Respondent in exchange for Respondent's legal services.

Respondent filed the bankruptcy petition and the necessary schedules and obtained a discharge of Bishop's debts.

On November 12, 2002, Bishop's bankruptcy was granted and an order issued discharging Bishop's debts.

On April 21, 2003, Bishop sent a letter to Respondent at his membership records address which was P.O. Box 6644, Los Osos, California 93412-6644, via United States mail, first class postage prepaid, requesting additional information concerning his bankruptcy. The letter was not returned by the United States Postal Service as undeliverable or for any other reason. Respondent failed to respond to the April 21, 2003 letter.

Previously, Respondent had agreed to resolve certain outstanding issues concerning Bishop's bankruptcy. Bishop had asked if Respondent needed additional payment or if Bishop should obtain a new lawyer to handle the outstanding issues, but Respondent told him that he would handle the outstanding issues concerning Bishop's bankruptcy. Respondent was planning on moving to Colorado, and informed Bishop of his impending move. Respondent assured Bishop that he would resolve the outstanding issues prior to leaving the state.

Bishop made multiple phone calls to Respondent at the telephone number Respondent provided to Bishop. Each time Bishop left detailed messages requesting status reports on the outstanding issues concerning his bankruptcy. Despite receiving these messages, Respondent failed to respond to them or to take any action to resolve the outstanding issues concerning Bishop's bankruptcy as requested.

On July 8, 2003, Bishop sent a copy of the April 21, 2003 letter to Respondent at his membership records address via the United States Postal Service, certified mail, return receipt requested, along with another letter dated July 8, 2003 concerning Respondent's inaction on the

outstanding issues concerning Bishop's bankruptcy. Respondent failed to collect the July 8, 2003 certified letter from the United States Postal Service.

On March 22, 2004, Respondent notified the State Bar that he was changing his status to inactive, and also provided a new membership records address: P.O. Box 440463, Aurora, Colorado 80044-0463.

On May 3, 2004, a State Bar investigator wrote to Respondent at his new State Bar membership records address, which he changed on March 22, 2004. The letter was placed in a sealed envelope, and properly mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business. The United States Postal Service did not return the investigator's letter as undeliverable or for any other reason.

The investigator's letter of May 3, 2003 requested Respondent to return Bishop's file to him, since Respondent had not undertaken efforts to resolve the outstanding issues concerning Bishop's bankruptcy, and provided Bishop's address to Respondent so that Respondent could return the file. Respondent did not respond to the investigator's letter or otherwise communicate with the investigator. Respondent also failed to return Bishop's file to Bishop.

On July 6, 2004, Bishop wrote and mailed a letter to Respondent at his new membership records address, via the United States Postal Service, first class postage prepaid. In the letter, Bishop requested the return of his file, so that Bishop could resolve the outstanding issues concerning his bankruptcy without Respondent's services. The July 6, 2004 letter was not returned by the United States Postal Service as undeliverable or for any other reason. Respondent failed to respond to the July 6, 2004 letter from Bishop and failed to return Bishop's file as requested.

By failing to return or otherwise release Bishop's client file, after receiving requests from Bishop and from State Bar (which request was made based on Bishop's complaint), Respondent failed, upon termination of employment, to release promptly to a client, at the request of the client, all the client's papers and property in violation of Rule of Professional Conduct 3-700(D)(1).

Case No. 03810 – Business and Professions Code section 6068(i) – Failure to Cooperate in State Bar investigation

On September 23, 2003, the State Bar opened an investigation, case number 03-O-03810, pursuant to a complaint filed by Bishop (the "Bishop matter").

On October 17, 2003, November 6, 2003 and January 22, 2004, State Bar Investigator Laurie Collier wrote to Respondent regarding the Bishop matter. The investigator's letters were placed in sealed envelopes correctly addressed to Respondent at his then current State Bar membership records address, P.O. Box 6644, Los Osos, CA 93412. The letters were properly mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business. The United States Postal Service did not return the investigator's letters as undeliverable or for any other reason.

The investigator's letters requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Bishop matter.

The third letter from the investigator dated January 22, 2004 specifically inquired whether Bishop's file had been returned to him. Respondent did not respond to the investigator's letters or otherwise communicate with the investigator.

Having received no response from Respondent to the investigator's three letters, the investigator conducted a Lexis-Nexis search to locate Respondent by alternative address.

On March 2, 2004, the investigator wrote to Respondent at 4220 S. Mobile Circle, Unit E, Aurora, CO 80013, an address she obtained during a Lexis-Nexis address search. The letter was placed in a sealed envelope, and properly mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business. The United States Postal Service did not return the investigator's letter as undeliverable or for any other reason.

The investigator's letter requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Bishop matter. The March 2, 2004 letter also specifically inquired whether Bishop's file had been returned to him. Respondent did not respond to the investigator's letter of March 2, 2004 or otherwise communicate with the investigator. Despite receipt of the investigator's letter of March 2, 2004, Respondent failed to respond.

As a final attempt to contact Respondent, on May 3, 2004, the investigator wrote to Respondent at his new State Bar membership records address, which he changed on March 22, 2004, after his receipt of the investigator's letter of March 2, 2004, P.O. Box 440463, Aurora, CO 80044. The letter was placed in a sealed envelope, and properly mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business. The United States Postal Service did not return the investigator's letter as undeliverable or for any other reason. Despite receipt of the investigator's letter of May 3, 2004, Respondent failed to respond.

With her letter of May 3, 2003, the investigator forwarded copies of the first four letters sent to Respondent, requested Respondent to return Bishop's file to him, and provided Bishop's address to Respondent so that Respondent could return the file. Respondent did not respond to the investigator's letter or otherwise communicate with the investigator.

By failing to provide a written response to the allegations in the Bishop matter or otherwise cooperate or participate in the investigation of the Bishop matter, Respondent failed to cooperate in a disciplinary investigation in violation of Business and Professions Code section 6068(i).

AUTHORITIES SUPPORTING DISCIPLINE

STANDARDS FOR ATTORNEY SANCTIONS

Pursuant to Standard 1.3 of the Standards for Attorney Sanctions for Professional Misconduct:

> The primary purposes of disciplinary proceedings conducted by the State Bar of California and of sanctions imposed upon a finding or acknowledgment of a member's professional misconduct are the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the protection of public confidence in the legal profession.

Pursuant to Standard 2.10 of the Standards for Attorney Sanctions for Professional Misconduct:

> Culpability of a member of a violation of any provision of the Business and Professions Code not specified in these standards not a wilful violation of any Rule of Professional Conduct not specified in these standards shall result in reproval or suspension according to the gravity of the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3.

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A. (6), was September ___, 2004.

9/17/04	Timothy Lee Wilkerson	TIMOTHY LEE WILKERSON
Date	Respondent's signature	print name
Date	Respondent's Counsel's signature	print name
9-20-04		ERIN McKEOWN JOYCE
Date	Deputy Trial Counsel's signature	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 reproval, 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 reproval may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.

9/23/04	
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. 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 September 23, 2004, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING, filed September 23, 2004

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

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

TIMOTHY WILKERSON, ESQ.
P O BOX 440463
AURORA CO 80044-0463

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

ERIN JOYCE, A/L, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **September 23, 2004.**

Rose M. Luthi

Rose M. Luthi
Case Administrator
State Bar Court