


ORIGINAL

**State Bar Court of California
Hearing Department
Los Angeles**

Counsel For The State Bar CHRISTINE SOUHRADA DEPUTY TRIAL COUNSEL 1149 SOUTH HILL STREET LOS ANGELES, CA 90015-2299 Telephone: (213) 765-1162	Case Number (s) 05-0-04651	(for Court's use)
Bar # 228256	<p align="center">PUBLIC MATTER</p>	<p align="center">FILED</p>
In Pro Per Respondent		<p align="center">MAR 29 2007 STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
KYLE S. HACKETT 3301 OCEAN PARK BLVD. #110 SANTA MONICA, CA 90405	kwiktag® 022 607 281 	
Bar # 194658	Submitted to: Assigned Judge	
In the Matter Of: KYLE S. HACKETT	STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING	
Bar # 194658	PUBLIC REPROVAL	
A Member of the State Bar of California (Respondent)	<input type="checkbox"/> 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 **March 30, 1998**.
- (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 10 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."

- (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 (public reproof)
 - ☐ case ineligible for costs (private reproof)
 - ☒ costs to be paid in equal amounts for the following membership years: **Costs to be paid in equal amounts prior to February 1 for the following three billing cycles following the effective date of Supreme Court order.**
(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
- (9) 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
 - (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 over eight years of practice.

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 must comply with the conditions attached to the reproof for a period of **one year**.
- (2) ☒ During the condition period attached to the reproof, 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 condition period attached to the reproof. 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 the reproof during the preceding calendar quarter. Respondent must also state in each report 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 (thirty) days, that report must 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.

- (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 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 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 conditions attached to the reprobation.
- (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.
- ☐ 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) ☒ 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 of the effective date of the reprobation.
- ☐ No MPRE recommended. Reason:
- (11) ☒ 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:

Please see page 6

Hackett.reprobation-stip.#72882

In the Matter of
KYLE S. HACKETT

Case number(s):
05-0-04651

A Member of the State Bar

Law Office Management Conditions

- a. ☒ Within 30 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.

Additional Condition:

Within one year of the effective date of the discipline herein, Respondent must submit to the Office of Probation satisfactory evidence of completion of no less than 6 hours of Minimum Continuing Legal Education (MCLE) approved courses in probate law and practices. 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.)

Attachment to Stipulation Re Facts, Conclusions of Law and Disposition
in the Matter of Kyle S. Hackett
Case no. 05-O-04651

I. Facts

1. On December 1, 2001, Patricia Taylor ("Taylor") and her mother, Maggie Currie ("Currie"), met with Respondent to discuss probating the estate of Currie's brother, Walter John Hollier ("Hollier" or "Hollier Estate"). Currie hired Respondent to probate the Hollier Estate and distribute its assets.

2. From 2003 to November 1, 2006, there were long periods of time during which Taylor would regularly call Respondent at his office and attempt to leave messages for him on his telephone voice message system requesting a return telephone call and status report. Although Respondent's voice message system would not generally accept a message as it had reached its storage capacity, Taylor was able to leave five to seven messages per year requesting a return telephone call and status report. Nevertheless, Respondent did not respond to Taylor's messages or otherwise communicate with Taylor in response to her messages.

3. On March 25, 2003, Taylor and Currie mailed and faxed a letter to Respondent informing Respondent that Taylor had left messages for Respondent which had not been returned, that Currie's health was deteriorating, and that Currie needed to resolve the Hollier Estate. The letter requested a telephone call and status report from Respondent. Respondent did not respond to Taylor's March 25, 2003 letter.

4. In May 2003, Taylor called and spoke with Respondent. Respondent agreed to prepare a durable power of attorney to provide Taylor authority to act for the Hollier Estate, a Quitclaim Deed for Currie to execute, a Last Will and Testament for Currie to execute, and to meet in June 2003.

5. On June 23, 2003, Respondent met with Taylor and Currie to have Currie execute the durable power of attorney for property, Quitclaim Deed, and Last Will and Testament prepared by Respondent.

6. On August 29, 2003, Currie died.

7. In September 2003, Taylor called and spoke with Respondent. Respondent agreed to meet with her the following week to discuss issues concerning Currie's death and the Hollier Estate. Thereafter, Respondent did not call Taylor to set up the meeting or otherwise communicate with Taylor.

8. On October 30, 2003, November 14, 2003, and March 8, 2004, Taylor faxed and mailed letters to Respondent complaining about his failure to communicate with her; requesting resolution of the Hollier Estate; and requesting a status report from Respondent. However, Respondent did not respond to Taylor's letters or otherwise communicate with Taylor.

9. On June 21, 2004, an attorney requested by Taylor to contact Respondent, James E. Parks ("Parks"), mailed a letter to Respondent informing Respondent that Taylor had been trying to contact him and to contact Taylor or Parks to let either of them know if Respondent was going to resolve the Hollier Estate. Nevertheless, Respondent did not respond to Parks' June 21, 2004 letter, or otherwise communicate with Taylor or Parks.

10. On August 22, 2005, Taylor filed a complaint against Respondent with the State Bar ("the Taylor complaint").

11. On March 15, 2006, Respondent filed the Petition for Probate in the Superior Court of California, County of Fresno.

12. On October 21, 2005, the State Bar opened investigation number 05-O-04651 concerning the Taylor complaint. On November 3, 2005, December 6, 2005, and December 29, 2005, a State Bar Investigator mailed letters to Respondent regarding the Taylor complaint. These letters requested that Respondent respond in writing to the specified allegations of misconduct being investigated by the State Bar in the Taylor complaint. Respondent did not respond to the State Bar's letters or otherwise communicate with the State Bar.

II. Conclusions of Law

13. By failing to probate the Hollier Estate between December 1, 2001 and March 15, 2006, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

14. By failing to respond for long periods of time to messages left by Taylor from 2003 to November 2006, and letters dated March 25, 2003, October 30, 2003, November 14, 2003, and March 8, 2004, Respondent wilfully failed to respond promptly to reasonable status inquiries of a client in willful violation of Business and Professions Code section 6068(m).

15. By failing to take any action to probate the Hollier Estate from on December 1, 2001 to June 21, 2004, or communicate with Taylor, Respondent wilfully failed upon termination of employment to take reasonable steps to avoid reasonably foreseeable prejudice to his client in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

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

III. Supporting Authority

Standard 2.4(b) 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 of the Standards for Attorney Sanctions for Professional Misconduct states "Culpability of a member of a violation of [Business and Professions Code 6068] shall result in disbarment or suspension..."

However, standard 1.6(b)(ii) states that a lesser degree of sanction shall be imposed if mitigating circumstances demonstrate that the purposes of imposing sanctions would be properly fulfilled by a lesser degree of sanction.

IV. Mitigation

Respondent, who has been admitted to practice in California since 1998, has no prior record of discipline.

V. Estimate of Costs of Disciplinary Proceedings

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of January 24, 2007, the estimated prosecution costs in this matter are approximately \$2,308.00. 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.

(Do not write above this line.)

In the Matter of
KYLE S. HACKETT

Case number(s):
05-0-04651

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 Fact, Conclusions of Law and Disposition.

26 February 2007
Date


Respondent's Signature


Kyle S. Hackett
Print Name

26 February 2007
Date


Respondent's Counsel Signature

Kyle S. Hackett
Print Name

2/28/2007
Date


Deputy Trial Counsel's Signature

Christine Souhrada
Print Name

(Do not write above this line.)

In the Matter Of
KYLE S. HACKETT

Case Number(s):
05-0-04651

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.
- ☐ All court dates in the Hearing Department 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 125(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.

Date

3-28-07

Judge of the State Bar Court

RICHARD A. HONN

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 March 29, 2007, 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:

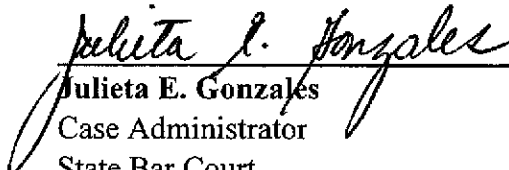
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**KYLE S HACKETT ESQ
3301 OCEAN PARK BLVD STE 110
SANTA MONICA, CA 90405**

- ☒ 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 **March 29, 2007**.



Julieta E. Gonzales
Case Administrator
State Bar Court