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State Bar Court of California
Hearing Department

PROGRAM FOR RESPONDENTS WITH SUBSTANCE ABUSE OR MENTAL HEALTH ISSUES

Counsel For The State Bar	Case Number (s)	(for Court's use)
CHARLES A. MURRAY Deputy Trial Counsel 1149 South Hill Street Los Angeles, California 90015 Bar # 146069 Tel: (213) 765-1236	05-O-05168 FILED AUG 11 2009 STATE BAR COURT CLERK'S OFFICE LOS ANGELES	LODGED FEB 14 2008 STATE BAR COURT CLERK'S OFFICE LOS ANGELES
Counsel For Respondent MICHAEL G. GERNER 10100 Santa Monica Blvd., Suite 300 Los Angeles, California 90067 Bar # 65906 Tel: (310) 772-2207		
In the Matter Of: ROBERT EDWARD GLASSER Bar # 47291 A Member of the State Bar of California (Respondent)	Submitted to: Program Judge **STIPULATION RE FACTS AND CONCLUSIONS OF LAW** ☐ 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 July 1, 1970.

(2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, if Respondent is not accepted into the Lawyer Assistance Program, this stipulation will be rejected and will not be binding on the Respondent or the State Bar.

(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, except for Probation Revocation proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of (6) pages, excluding the order.

(4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts." -See Attachment

(5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law". -See Attachment

(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 and will pay timely any disciplinary costs imposed in this proceeding.

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)] (See Attachment at Page 5.)

2 priors.

(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:

(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.

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(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. SEE PG. 5.

(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:

ATTACHMENT TO ADP STIPULATION
RE FACTS & CONCLUSIONS OF LAW

IN THE MATTER OF: **ROBERT EDWARD GLASSER, State Bar No. 47291**

CASE NUMBERS: 05-O-05168

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(6), was October 15, 2007.

STIPULATION AS TO FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that she is culpable of violations of the specified statues and/or Rules of Professional Conduct, or that s he has otherwise committed acts of misconduct warranting discipline, as follows:

05-O-05168

FACTS:

1. On or about August 30, 2005, Respondent's client, Nancy Mathis ("Mathis"), gave Respondent a check for $55,000 to pay as settlement funds to the opposing party in a matter in which Respondent represented her.

2. On September 1, 2005, Respondent deposited the $55,000 check received from Mathis into his client trust account, no.0711445288, at Union Bank of California ("CTA"). At the time that Respondent deposited Mathis' check for $55,000, there was $153.91 in his CTA, which resulted in a balance of $55,153.91.

3. Respondent was required to maintain the sum of $55,000 in trust in his CTA until he paid the settlement funds on behalf of Mathis and was not entitled to any portion of that sum.

4. On September 7, 2005, Respondent transferred $2,093.10 from his CTA to his general account, no.0710055696, at Union Bank of California ("General Account") to pay his office rent of $2,128.00. After transferring the $2,093.10, the balance in the CTA fell to $53,060.81.

5. Respondent did not deposit funds into or withdraw funds out of his CTA between the time that he deposited the $55,000 check he received from Mathis and the time that he transferred $2,093.10 from his CTA to his general account, *i.e.*, the balance in his CTA remained $55,153.91.

6. Respondent knew, or was grossly negligent in not knowing, that he misappropriated at least $1,939.19 of the settlement funds held in trust for Mathis.

7. On or about September 23, 2005, Respondent issued CTA check no. 1042 in the amount $55,000 to the Law Offices of Larry Fabrizi Trust Account to settle the matter concerning Mathis.

8. Between the time that he transferred $2,093.10 from his CTA to his general account on September 7, 2005 and the time that he issued CTA check no. 1042 in the amount $55,000 on or about September 23, 2005, Respondent did not deposit funds into or withdraw funds out of his CTA, *i.e.*, the balance in the CTA remained $53,060.81.

9. On September 27, 2005, CTA check no. 1042 in the amount $55,000 was paid against insufficient funds as the balance in the CTA was $53,060.81.

10. Respondent issued CTA check no. 1042 in the amount $55,000 when he knew, or was grossly negligent in not knowing, that there were insufficient funds in his CTA.

CONCLUSIONS OF LAW:

11. By not maintaining at least $55,000 received on behalf of Mathis in his CTA, Respondent wilfully failed to maintain the balance of funds received for the benefit of a client and deposited in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import, in wilful violation of Rules of Professional Conduct, rule 4-100(A).

12. By knowingly, or being grossly negligent in not knowing that he, misappropriating at least $1,939.19 of the funds held in trust for Mathis, Respondent wilfully committed an act involving moral turpitude, dishonesty or corruption in wilful violation of Business and Professions Code section 6106.

13. By issuing CTA check no. 1042 when he knew, or was grossly negligent in not knowing, that there were insufficient funds in his CTA, Respondent wilfully committed an act involving moral turpitude, dishonesty or corruption, in wilful violation of Business and Professions Code, section 6106.

AGGRAVATING CIRCUMSTANCES.

PRIOR DISCIPLINE.

Case No. S090919 (95-O-14251): Effective November 29, 2000. Violations: Charged and/or collected an illegal fee of over $7,377 (RPC 4-200); Failed to repay an estate as ordered by the Court (SBA 6103). Discipline: Six months suspension, stayed, probation for two years with conditions including payment of restitution, MPRE within 1 year and costs.

Case No. S112689 (01-O-03803): Effective May 3, 2003 Violations: Failed to Maintain client funds in trust (RPC 4-100(A); Paying himself $1000 more from the CTA than he was entitled (RPC 4-100(A); Failed to maintain written ledgers for client funds (RPC 4-100(B)(3); Discipline: One year suspension, stayed, probation for three years on conditions including 30 days actual suspension, to comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court by its order and costs.

MITIGATING CIRCUMSTANCES:

CANDOR/COOPERATION:

Respondent cooperated with the State Bar in these Proceedings.

FAMILY PROBLEMS:

Respondent was involved in a bitter family dispute involving his father's transfer of real property to Respondent's brother and two sisters without any portion of it going to Respondent.

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In the Matter of ROBERT EDWARD GLASSER Member #47291	Case number(s): 05-O-05168

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 and Conclusions of Law.

Respondent enters into this stipulation as a condition of his/her participation in the Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Program Contract.

If the Respondent is not accepted into the Program or does not sign the Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

If the Respondent is accepted into the Program, upon Respondent's successful completion of or termination from the Program, this Stipulation will be filed and the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Statement Re: Discipline shall be imposed or recommended to the Supreme Court.

11/5/07 Date	Robert E. Glasser Respondent's Signature	ROBERT E. GLASSER Print Name
11-7-07 Date	Respondent's Counsel Signature	MICHAEL G. GERNER Print Name
11-8-07 Date	Deputy Trial Counsel's Signature	CHARLES A. MURRAY Print Name

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In the Matter Of ROBERT EDWARD GLASSER Member #47291	Case Number(s): 05-O-05168

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:

- [x] The stipulation as to facts and conclusions of law is APPROVED.
- [ ] The stipulation as to facts and conclusions of law is APPROVED AS MODIFIED as set forth below.
- [ ] 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; or 3) Respondent is not accepted for participation in the Program or does not sign the Program Contract. (See rule 135(b) and 802(b), Rules of Procedure.)

2/7/08
Date

Judge of the State Bar Court

DONALD F. MILES

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 2, 2009, I deposited a true copy of the following document(s):

DECISION AND ORDER SEALING CERTAIN DOCUMENTS; STIPULATION RE FACTS AND CONCLUSIONS OF LAW

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:

MICHAEL GALEN GERNER
MICHAEL G GERNER, A PROF LAW CORP
425 S BEVERLY DR STE 210
BEVERLY HILLS, CA 90212

ROBERT EDWARD GLASSER
NEWPORT DIVORCE ATTORNEY
901 DOVE ST STE 205
NEWPORT BEACH, CA 92660

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

CHARLES MURRAY, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on November 2, 2009.

T Cleaver

Tammy Cleaver
Case Administrator
State Bar Court