

State Bar Court of California
Hearing Department
San Francisco

kwiktag®

031 977 537



<p>Counsel For The State Bar</p> <p>Wonder J. Liang Deputy Trial Counsel 180 Howard Street San Francisco, California 94105 (415) 538-2372</p> <p>Bar # 184357</p>	<p>Case Number (s) 06-O-11987-RAH</p> <p>PUBLIC MATTER</p>	<p>(for Court's use)</p> <p>FILED <i>LS</i></p> <p>JUL 26 2007</p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>Counsel For Respondent</p> <p>Juan M. Falcon Juan M. Falcon & Assoc., Inc. 252 North Fulton Street Fresno, California 93701 (559) 499-2626</p> <p>Bar # 177400</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>PUBLIC REPROVAL</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter Of:</p> <p>Martin H. Gamulin</p> <p>Bar # 206319</p> <p>A Member of the State Bar of California (Respondent)</p>		

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 16, 2000**.
- (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".

(Do not write above this line.)

- (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:
(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. **Between 2001 through 2005, respondent went through a divorce, his father suffered debilitating strokes, and his brother suffered from a mental health episode that resulted in his brother being institutionalized.**
- (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 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 (1) 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 reproof.
- (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 reproof.
 - No MPRE recommended. Reason:
- (11) The following conditions are attached hereto and incorporated:
 - Substance Abuse Conditions
 - Medical Conditions
 - Law Office Management Conditions
 - Financial Conditions

F. Other Conditions Negotiated by the Parties:

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: MARTIN H. GAMULIN, SBN 206319

CASE NUMBER(S): 06-O-11987

FACTS AND CONCLUSIONS OF LAW.

Facts: Count One:

1. Prior to on or about March 12, 2001, respondent Gamulin and attorney Harpreet Brar formed the limited liability partnership Brar & Gamulin, LLP.

2. In or about February 2002, Brar & Gamulin, LLP, began filing lawsuits alleging violations of the Unfair Competition Act, Business and Professions Code section 17200 et seq.

3. On July 7, 2003, the California Attorney General's office filed a complaint for Injunction, Restitution, Other Equitable Relief and Civil Penalties in the matter *People v. Harpreet Brar, Oscar Sohi, California Watchdog and Brar & Gamulin LLP*, Orange County Superior Court, Case number 03 CC 08825. The complaint alleged that the defendants were engaging in a settlement scam, forcing small business owners to pay defendants money in exchange for their dismissal from frivolous lawsuits.

4. On or about October 13, 2004, Orange County Superior Court issued a permanent injunction (the Permanent Injunction) prohibiting "Harpreet Brar and his representatives, employees and agents, all persons, corporations and other entities acting in concert with or at the direction of Harpreet Brar are permanently enjoined and restrained from engaging in or performing" several actions, including:

"B. Filing any case, or bringing any action, under Business and Professions Code section 17200, without engaging in adequate investigation within the meaning of Civil Code section 128.7."

"C. Naming as defendants in any action two or more parties unless all defendants meet the factual nexus test required under Code of Civil Procedure section 379."

"E. Receiving any money, [other than with court approval] as the result of

settling any dispute in which Harpreet Brar filed or threatened to file a representative private attorney general action under the authority of Business and Professions Code section 17204 or 17535 without first filing the action and in a separate pleading disclosing the terms of the such settlement to the trial court where the action is filed and receiving express approval of that court of each provision of the settlement.”

5. Prior to on or about May 12, 2005, respondent Kerlan and respondent Gamulin became aware of the Permanent Injunction.

6. On May 12, 2005, Brar, respondent Kerlan and respondent Gamulin filed a complaint in the matter *Santinder Brar v. Ed's Liquor et seq.*, Los Angeles County Superior Court, case number VC044432 alleging a violation of the Consumer Legal Remedies Act. Santinder Brar was Harpreet Brar's wife and the lawsuit named approximately 40 liquor stores as defendants. Brar, respondent Kerlan and respondent Gamulin all signed the complaint.

7. On or about May 18, 2005, Brar sent the defendants a letter stating that the amount of attorney's the plaintiffs would be requesting “will escalate as the case progresses.” The letter proposes that the defendants settle the lawsuit by paying \$750 no later than May 27, 2005 and by executing a settlement agreement. Respondent Kerlan and Respondent Gamulin were copied on the letter to the defendants.

8. Brar received payment and Brar, respondent Kerlan and respondent Gamulin failed to notify the court of Liquor Land's settlement payment and failed to obtain the court's approval prior to receiving Liquor Land's payment.

9. On July 11, 2005 and July 27, 2005, the court ruled on some of the defendants demurrer to the complaint. The court held that the complaint did not meet the factual nexus test required under California Code of Civil Procedure section 379 and dismissed the complaint without leave to amend as to the demurring defendants.

10. On September 30, 2005, one of the defendants filed a motion to disqualify Brar and informed the Los Angeles Superior Court of the Permanent Injunction issued by the Orange County Superior Court.

11. On October 26, 2005, the Los Angeles Superior Court, on its own motion, issued an Order to Show Cause and directed Brar, respondent Kerlan and respondent Gamulin to appear on November 16, 2005 and “show that the complaint bearing their signatures is not being presented primarily for an improper purpose . CCP section 128.7(b)(1).

12. On November 14, 2005, Brar filed a Request for Dismissal without prejudice as to all defendants.

Conclusions of Law: Count One:

Respondent Gamulin wilfully disobeyed and violated an order of the Orange County Superior Court prohibiting him from filing the *Brar v. Ed's Liquor* matter in the course of his profession which he ought in good faith have forborne in violation of section 6103 of the Business and Professions Code.

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was July 11, 2007.

DISMISSALS.

The parties respectfully request the Court to dismiss the following alleged violations in the interest of justice, as a matter of prosecutorial discretion, as to respondent Gamulin:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
06-O-11987	Two	Section 6068(c) of the Business and Professions Code
	Three	Section 6068(a) of the Business and Professions Code

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of July 11, 2007, the costs in this matter are \$3,654.00. 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.

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 2.6 provides that culpability of a member of a violation of any of the following provisions of the Business and Professions Code shall result in disbarment or suspension.

However, in light of respondent's factors in mitigation, the parties agreed to the stipulated level of discipline.

STATE BAR ETHICS SCHOOL.

Because respondent has agreed to attend State Bar Ethics School as part of this stipulation, respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School.

(Do not write above this line.)

In the Matter of Martin H. Gamulin, SBN 206319	Case number(s): 06-O-11987-RAH
---	---------------------------------------

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.

7/23/07

Date



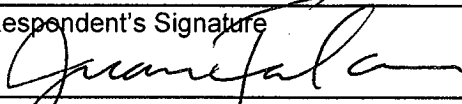
Respondent's Signature

Martin H. Gamulin

Print Name

7/23/07

Date



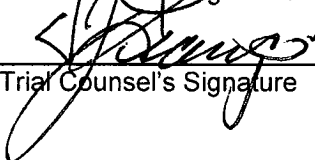
Respondent's Counsel Signature

Juan M. Falcon

Print Name

7/25/07

Date



Deputy Trial Counsel's Signature

Wonder J. Liang

Print Name

(Do not write above this line.)

In the Matter Of Martin H. Gamulin, SBN 206319	Case Number(s): 06-O-11987-RAH
--	--

ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproof, 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 reproof may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.

Date July 26, 2007

Pat McElroy
Judge of the State Bar Court

CERTIFICATE OF SERVICE
[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on July 26, 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:

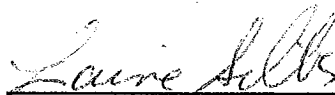
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

**JUAN M. FALCON
FALCON & ASSOCIATES
252 N FULTON ST
FRESNO, CA 93701**

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

WONDER LIANG, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **July 26, 2007**.



Laine Silber
Case Administrator
State Bar Court