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| State Bar Court of California Hearing Department Los Angeles REPROVAL | | | PUBLIC MATTER |
|---|--|--|----------------------|
| Counsel For The State Bar Diane J. Meyers Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1496 Bar # 146643 | Case Number(s): 12-O-11241 | For Court use only <div style="text-align: center;"> FILED SEP 19 2012 STATE BAR COURT CLERK'S OFFICE LOS ANGELES kwiktag® 152 141 862  </div> | |
| In Pro Per Respondent Michael E. Plotkin 80 S. Lake Avenue, Suite 725 Pasadena, CA 91101 (626) 568-8088 Bar # 77781 | Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING PUBLIC REPROVAL <input type="checkbox"/> PREVIOUS STIPULATION REJECTED | | |
| In the Matter of: Michael Elliott Plotkin Bar # 77781 A Member of the State Bar of California (Respondent) | | | |

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 21, 1977.
- (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."
- (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 are added to membership fee for calendar year following effective date of discipline (public reproof).
 - ☐ Case ineligible for costs (private reproof).
 - ☒ Costs are to be paid in equal amounts prior to February 1 for the following membership years: Costs are to be paid in equal amounts for the two billing cycles immediately following the effective date of the Supreme Court order in this matter. (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - ☐ Costs are 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. See Attachment to Stipulation at p. 9.
- (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:

See Attachment to Stipulation at pp. 9 - 10.

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 type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Michael Elliott Plotkin

CASE NUMBER(S): 12-O-11241

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. 12-O-11241 (Complainant: Alfonso De Renzis)

FACTS:

1. On July 24, 2009, Alfonso De Renzis ("De Renzis") employed Respondent to represent him in claims against De Renzis's sister, Susan Sielski ("Sielski"), for her alleged mismanagement of their mother's trust entitled the Angelina De Renzis Trust and created in 1991 (the "trust"). Angelina De Renzis ("Angelina") died on May 11, 2009. De Renzis and Sielski became the co-successor trustees upon Angelina's death, but only Sielski participated as a trustee. Angelina resided with Sielski until in or about August 2005, when Angelina sold her home in Los Angeles. Sielski continued to reside with Angelina until her death. Derenzis and Sielski received equal amounts from the sale of the home, but approximately \$192,000 remained from the sale of the home. De Renzis alleged that Sielski improperly removed funds from the trust's accounts. De Renzis was seeking an accounting of the \$192,000 and recovery of any property improperly removed from the trust. De Renzis also requested that Respondent file the documents needed to enjoin Sielski from borrowing against or selling the trust assets.

2. On July 24, 2009, De Renzis entered into a fee agreement with Respondent wherein De Renzis agreed to pay Respondent \$5,000 as an advanced fee and 25 percent of the gross recovery obtained by Respondent, less the \$5,000 advanced fee. On July 24, 2009, De Renzis paid Respondent \$5,000 as an advanced fee.

3. On September 24, 2009, Respondent filed a petition for the recovery of the trust property and an accounting on behalf of De Renzis in the Los Angeles County Superior Court, North District, case number MP005297. The court set a hearing on the petition for November 12, 2009.

4. On November 12, 2009, the court held a hearing on the petition. Respondent appeared at the hearing on behalf of De Renzis. The court noted deficiencies with the petition: (a) the petition was unclear if the principal place of administration of the trust was located in the County of Los Angeles or if the North District Court was the proper venue; (b) there was no allegation in the petition regarding the identities and addresses of all trust beneficiaries and contingent beneficiaries; (c) there was no 30-day notice of the November 12, 2009 hearing to the trust beneficiaries and contingent beneficiaries; (d) there was no authority cited for the attorney fees and costs requested in the petition; and (e) the petition did not reflect whether De Renzis acted as a co-trustee, although De Renzis was named as co-trustee in the trust. The court concluded that a verified supplement to the petition was required to address the deficiencies with the petition. The court continued the hearing to January 14, 2010.

5. On January 14, 2010, the court held a hearing on the petition. Respondent appeared at the hearing on behalf of De Renzis. Sielski also appeared at the hearing but had not filed a response to the petition or an accounting. Respondent had not corrected the deficiencies with the petition since the hearing on November 12, 2009. The court noted the same deficiencies with the petition. The court continued the hearing to April 22, 2010.

6. On February 22, 2010, Respondent conveyed an offer from Sielski to De Renzis to settle the matter for the transfer of real property located in Lancaster, California to De Renzis. De Renzis rejected the offer because there was an outstanding mortgage on the property that exceeded the value of the property and the property was in foreclosure.

7. In or about April 2010, Sielski sold a vacant lot in Palmdale, California for \$7,000. Sielski had purchased the lot in 2006 with \$22,490.88 from one of the trust's account and had recorded the lot as her property on March 17, 2006. At the time of the sale of the lot in 2010, there were property taxes owed on the lot.

8. On April 22, 2010, the court held a hearing on the petition. Respondent appeared at the hearing on behalf of De Renzis. Sielski also appeared at the hearing and provided copies of bank records related to the trust to Respondent but had not filed a response to the petition or an accounting. Respondent had not corrected the deficiencies with the petition since the hearing on January 14, 2010. The court continued the hearing to June 24, 2010.

9. On April 23, 2010, Respondent sent e-mail to De Renzis. In the e-mail, Respondent informed De Renzis that the court advised Sielski to file a response to the petition and that the hearing had been continued to June 27, 2010. In the e-mail, Respondent also told De Renzis that he would be propounding interrogatories to Sielski to explain expenses she paid from the trust assets and to obtain information regarding Sielski's financial accounts, their mother's accounts, their mother's Social Security checks, and withdrawals from the trust account.

10. On June 23, 2010, Respondent faxed a letter to De Renzis. In the letter, Respondent requested the names and addresses of all of his siblings and the grandchildren of his mother and stated that he would be asking the court to set the case for trial at the June 24, 2010 hearing.

11. On June 24, 2010, the court held a hearing on the petition. Respondent appeared at the hearing on behalf of De Renzis. Sielski also appeared at the hearing but had not filed a response to the petition or an accounting. Respondent had not corrected the deficiencies with the petition since the hearing on April 22, 2010. The court continued the hearing to September 16, 2010.

12. On June 25, 2010, De Renzis faxed to Respondent the information Respondent had requested on June 23, 2010.

13. During the representation, Respondent reviewed the bank records related to the trust. Based on this review, Respondent determined that the trust's funds were withdrawn for purposes other than for Angelina's benefit. Respondent provided copies of the bank records to De Renzis. On March 17, 2010, De Renzis had provided Respondent a letter in which he highlighted questionable withdrawals from the trust's accounts. Respondent approached Sielski about these withdrawals. Sielski maintained that all of the expenditures were made with the full consent and permission of Angelina. Sielski also maintained that she had no money or assets. Respondent concluded that there was no way to determine whether Angelina had authorized the withdrawals of the funds from the trust, including the funds used to

purchase the vacant lot that was conveyed to Sielski. Consequently, Respondent concluded that there was no likelihood of obtaining any recovery for De Renzis.

14. On September 16, 2010, Respondent did not appear at the hearing on behalf of De Renzis due to an illness. Respondent attempted to have another attorney appear in his place and attempted to contact the court clerk without success. Sielski appeared at the hearing, but had not filed a response to the petition or an accounting. Respondent had not corrected the deficiencies with the petition since the hearing on June 24, 2010. The court dismissed the petition, without prejudice. Before the petition was dismissed, Respondent had not filed any request with the court to enjoin Sielski from borrowing against or selling the trust assets. Respondent took no further action to refile the petition or otherwise pursue the matter.

15. Between September 16 and November 9, 2010 approximately, De Renzis repeatedly called Respondent and left messages asking for the status of the petition. Respondent did not respond to De Renzis's calls. Respondent did not inform De Renzis of the dismissal of the petition.

16. On November 9, 2010, De Renzis discovered that the petition had been dismissed. On November 9, 2010, De Renzis reviewed the court's website and discovered that the petition was denied on September 16, 2010. On November 9, 2010, De Renzis sent an e-mail to Respondent regarding his discovery about the denial of the petition. Respondent did not respond to De Renzis's e-mail.

17. Between November 9 and 23, 2010, De Renzis repeatedly called and left messages for Respondent for an explanation for the denial of the petition. Respondent did not respond to De Renzis's calls.

18. On November 23, 2010, De Renzis called Respondent's office and pretended to be someone else and asked to speak to Respondent. Respondent accepted the call and told De Renzis that he was sick on September 16, 2010 to explain why he did not appear at the hearing. De Renzis requested that Respondent file the documents needed to reopen the case. Respondent did not intend to reopen the case but did not effectively communicate his intention to De Renzis.

19. On November 29, 2010, De Renzis called Respondent for the status of the documents needed to reopen the case. De Renzis requested that Respondent e-mail copies of the documents to De Renzis. Respondent did not forward copies of the documents to De Renzis or tell De Renzis that he was not reopening the case.

20. On December 1 and 8, 2010, De Renzis sent e-mail to Respondent and requested that Respondent forward copies of the documents requesting that the case be reopened to De Renzis. Respondent did not forward copies of the documents or tell De Renzis that he was not reopening the case.

21. In September 2011, De Renzis submitted a complaint against Respondent to the State Bar of California.

22. In March 2012, after being contacted by the State Bar about De Renzis's complaint, Respondent sent a letter to De Renzis offering to restart the case or, alternatively, refund the \$5,000 to De Renzis.

23. On May 21, 2012, De Renzis sent a request to Respondent for a refund of the \$5,000 advanced fee.

24. Respondent acknowledges that he did not fully earn the \$5,000 fee paid by De Renzis. However, Respondent incurred out-of-pocket expenses during the representation including \$355 for court filing fees and \$35 in processing fees and travel costs from Pasadena, California to Lancaster, California for the court appearances. Respondent refunded \$5,000 to De Renzis on August 1, 2012.

CONCLUSIONS OF LAW:

1. By not correcting the deficiencies with the petition; by not filing any request with the court to enjoin Sielski from borrowing against or selling the trust assets; by not appearing at the September 16, 2010 hearing on behalf of De Renzis; and by allowing the court to dismiss the petition, Respondent failed to perform legal services with competence, in wilful violation of Rules of Professional Conduct, rule 3-110(A).

2. By not informing De Renzis of the dismissal of the petition and by not responding to De Renzis's calls between September 16 and November 23, 2010, and e-mail on November 9, December 1 and December 8, 2010, Respondent failed to keep a client reasonably informed of a significant development in a matter in which the attorney has agreed to provide legal services and failed to respond promptly to reasonable status inquiries of a client in a matter in which Respondent has agreed to provide legal services, in wilful violation of Business and Professions Code section 6068(m).

3. By not refunding any of the \$5,000 advanced fee to De Renzis until August 1, 2012, Respondent failed to refund promptly any part of a fee paid in advance that was not earned, in wilful violation of Rules of Professional Conduct, rule 3-700(D)(2).

ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.

Multiple/Pattern of Misconduct: Respondent's misconduct involved his failure to perform services, communicate with his client, and promptly refund fees in a single client matter.

ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.

Additional Mitigating Circumstances:

Respondent was admitted to the State Bar on December 21, 1977 and has no prior record of discipline. Respondent's lack of prior discipline in over 30 years of practice before the misconduct occurred is entitled to significant weight in mitigation. (Standard 1.2(e)(1); See *In the Matter of Bleecker* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 113, 127, citing *Heavey v. State Bar* (1976) 17 Cal.3d 553, 560, an attorney with 30 years of practice and no prior discipline was entitled to significant mitigation.)

Respondent was candid with the State Bar during its investigation and proceedings and has stipulated to misconduct at an early stage of the proceedings. Respondent thereby demonstrated his recognition of wrongdoing and cooperation with the State Bar and saved the State Bar's resources. (Standard 1.2(e)(v); see *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 50.)

As set forth in the "Facts" section above, at paragraph 22, Respondent contacted De Renzis in March 2012, after being contacted about De Renzis's State Bar complaint, and offered to refile his case or provide a full refund in an effort to atone for the consequences of his misconduct. Although Respondent's offer was prompted by De Renzis's State Bar complaint, Respondent is entitled to some mitigation.

Respondent served over 27 years as an officer in the United States Army, including 37 months active duty and 24-1/2 years active reserve duty. During the last 10 years of Respondent's active reserve duty, he was not compensated for 20 percent to 30 percent of his service and such service was not credited toward his retirement compensation. As such, Respondent is entitled to mitigation for his pro bono active reserve duty. (See *In the Matter of Chesnut* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166, 176.)

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct provide a "process of fixing discipline" pursuant to a set of written principles to "better discharge the purposes of attorney discipline as announced by the Supreme Court." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, Introduction (all further references to standards are to this source).) The primary purposes of disciplinary proceedings and of the sanctions imposed are "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." (*In re Morse* (1995) 11 Cal.4th 184, 205; std 1.3.)

Although not binding, the standards are entitled to "great weight" and should be followed "whenever possible" in determining level of discipline. (*In re Silverton* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) Any discipline recommendation different from that set forth in the applicable standards should clearly explain the reasons for the deviation. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

Respondent admits to committing three acts of professional misconduct. Standard 1.6 (a) requires that where a Respondent acknowledges two or more acts of misconduct, and different sanctions are prescribed by the standards that apply to those acts, the sanction imposed shall be the more or most severe prescribed in the applicable standards.

The most severe sanction applicable to Respondent's misconduct is found in standard 2.4(b), which applies to Respondent's violations of Rules of Professional Conduct, rule 3-110(A) and Business and Professions Code section 6068(m). Standard 2.4 (b) provides that 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 on the extent of the misconduct and the degree of harm to the client.

A greater or lesser degree of discipline than the appropriate sanction shall be imposed or recommended if the net effect of aggravating or mitigating circumstances surrounding the misconduct

demonstrates that the purposes of imposing discipline under standard 1.3 will be properly fulfilled if a greater or lesser degree of sanction is imposed. (Standards 1.6(b)(i) and (ii).)

Respondent's misconduct in allowing De Renzis's action to be dismissed and in not seeking to reopen the action stemmed from his failure to communicate to De Renzis that there was no likelihood of any recovery from Sielski and that Respondent did not intend to reopen the action. Since there was no likelihood of any recovery from Sielski, there was no significant harm caused by Respondent's misconduct. There is a significant mitigating factor present of Respondent's discipline-free practice for a period exceeding 30 years at the time of his misconduct. The net effect of this significant mitigating factor, combined with his candor and cooperation, effort to atone for his misconduct, and lengthy military service, outweigh the aggravating factor of Respondent's multiple acts of misconduct committed in a single client matter. As such, a lesser degree of discipline under standard 2.4 is warranted. A public reproof will serve to remind Respondent of the primary purposes of disciplinary proceeding including protection of the public, the court and the legal profession, maintenance of high professional standards by attorneys, and the preservation of public confidence in the legal profession. (Standard 1.3.)

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was August 30, 2012.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of August 3, 2012, the prosecution costs in this matter are \$2,945.55. 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.

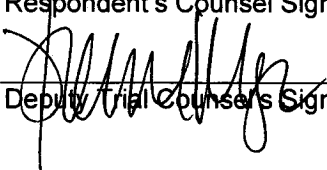
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| In the Matter of: Michael Elliott Plotkin | Case number(s): 12-O-11241 |
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SIGNATURE OF THE PARTIES

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.

| | | |
|----------------|--|---------------------------|
| <u>9-10-12</u> | <u></u> | <u>Michael E. Plotkin</u> |
| Date | Respondent's Signature | Print Name |

| | | |
|----------------|--|------------------------|
| <u>9/12/12</u> | <u></u> | <u>Diane J. Meyers</u> |
| Date | Deputy Trial Counsel's Signature | Print Name |

(Do not write above this line.)

In the Matter of:
Michael Elliott Plotkin

Case Number(s):
12-O-11241

REPROVAL 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.

*PAGE 2 SECTION A. (8)
END OF FIRST SENTENCE ... IN THIS MATTER.
INSERT (2014 AND 2015).*

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 5.58(E) & (F), 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

9-17-2012


RICHARD A. PLATEL
Judge of the State Bar Court

RICHARD A. PLATEL

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); 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 September 19, 2012, 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:

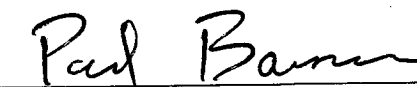
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

MICHAEL ELLIOTT PLOTKIN ESQ.
80 S LAKE AVE STE 725
PASADENA, CA 91101

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

Diane J. Meyers, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 19, 2012.



Paul Barona
Case Administrator
State Bar Court