


<p>Counsel for the State Bar THE STATE BAR OF CALIFORNIA OFFICE OF THE CHIEF TRIAL COUNSEL ENFORCEMENT SHARI SVENINGSON, BAR NO. 195298 1149 South Hill Street Los Angeles, CA 90015-2299 Telephone: (213) 765-1004</p>	<p>Case number(s) 97-0-13344 01-0-00098</p> <p>kwiktag® 035 117 300</p> 	<p>(for Court's use) FILED <i>MDS</i> MAY 19 2004 STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> <p>PUBLIC MATTER</p>
<p>Counsel for Respondent JoAnne Earls Robbins, Bar No. 82352 Karpman & Associates 9200 Sunset Blvd PH #7 Los Angeles, CA 90069 Telephone: (310) 887-3900</p>	<p>Submitted to <input type="checkbox"/> assigned judge <input checked="" type="checkbox"/> settlement judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>STAYED SUSPENSION; NO ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of NORBERTO F. REYES, III Bar # 158569 A Member of the State Bar of California (Respondent)</p>		

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted June 9, 1992
(date)
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation, and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation and order consist of 11 pages.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."
- (6) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
 - ☐ costs added to membership fee for calendar year following effective date of discipline
 - ☒ costs to be paid in equal amounts prior to February 1 for the following membership years:
2005, 2006 and 2007
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
 - ☐ costs waived in part as set forth under "Partial Waiver of Costs"
 - ☐ costs entirely waived

Note: All information required by this form and any additional information which cannot be provided in the space provided, shall be set forth in the text component of this stipulation under specific headings, i.e. "Facts," "Dismissals," "Conclusions of Law."

B. Aggravating Circumstances (definition, see Standards for Attorney Functions 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 95-0-11099

(b) ☒ date prior discipline effective January 3, 1996

(c) ☐ Rules of Professional Conduct/ State Bar Act violations: Business & Professions

Code section 6068(m)

(d) ☒ degree of prior discipline Private Reprimand

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

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

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

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

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

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

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

(8) ☐ No aggravating circumstances are involved.

Additional aggravating circumstances:

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

- (1) ☐ No Prior Discipline: Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) ☐ No Harm: Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☒ Candor/Cooperation: Respondent displayed spontaneous candor and cooperation to the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) ☒ Remorse: Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ Restitution: Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ Delay: These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ Good Faith: Respondent acted in good faith.
- (8) ☐ Emotional/Physical Difficulties: At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) ☐ 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.
- (10) ☐ 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.
- (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. Stayed Suspension.

- A. Respondent shall be suspended from the practice of law for a period of one (1) year
- ☐ i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
 - ☐ ii. and until Respondent pays restitution to _____ [payee(s)] (or the Client Security Fund, if appropriate), in the amount of _____, plus 10% per annum accruing from _____ and provides proof thereof to the Probation Unit, Office of the Chief Trial Counsel
 - ☐ iii. and until Respondent does the following: _____

B. The above-referenced suspension shall be stayed.

2. Probation.

Respondent shall be placed on probation for a period of two (2) years, which shall commence upon the effective date of the Supreme Court order herein. (See rule 953, California Rules of Court.)

E. Additional Conditions of Probation:

- (1) ☒ During the probation period, Respondent shall comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2) ☒ Within ten (10) days of any change, Respondent shall report to the Membership Records Office of the State Bar and to the Probation Unit, all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (3) ☒ Respondent shall submit written quarterly reports to the Probation Unit on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, respondent shall state whether respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. If the first report would cover less than 30 days, that report shall be submitted on the next 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 period of probation and no later than the last day of probation.
- (4) ☐ Respondent shall be assigned a probation monitor. Respondent shall promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, respondent shall furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Probation Unit. Respondent shall cooperate fully with the probation monitor.
- (5) ☒ Subject to assertion of applicable privileges, Respondent shall answer fully, promptly and truthfully any inquiries of the Probation Unit of the Office of the Chief Trial Counsel and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.

(6) ☒ Within one (1) year of the effective date of the discipline imposed, respondent shall provide to the Probation Unit 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.

(7) ☐ Respondent shall comply with all conditions of probation imposed in the underlying criminal matter and shall so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Probation Unit.

(8) ☒ The following conditions are attached hereto and incorporated:

☐ Substance Abuse Conditions ☒ Law Office Management Conditions

☐ Medical Conditions ☐ Financial Conditions

(9) ☒ Other conditions negotiated by the parties:

Respondent must attend and complete the State Bar Client Trust Account School within one (1) year of the effective date of discipline.

☒ Multistate Professional Responsibility Examination: Respondent shall provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Probation Unit of the Office of the Chief Trial Counsel within one year. Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 951(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.

☐ No MPRE recommended.

In the Matter of NORBERTO F. REYES

Case Number(s): 97-0-13344

A Member of the State Bar

01-0-00098

Law Office Management Conditions

- a. ☐ Within ___ days/ ___ months/ ___ years of the effective date of the discipline herein, Respondent shall develop a law office management/ organization plan, which must be approved by respondent's probation monitor, or, if no monitor is assigned, by the Probation Unit. This plan must include procedures to send periodic reports to clients; the documentation of telephone messages received and sent; file maintenance; the meeting of deadlines; the establishment of procedures to withdraw as attorney, whether of record or not, when clients cannot be contacted or located; and, for the training and supervision of support personnel.
- b. ☒ Within ___ ~~days~~/ ___ ~~months~~ 1 year~~s~~ of the effective date of the discipline herein, respondent shall submit to the Probation Unit satisfactory evidence of completion of no less than 6 hours of MCLE approved courses in law office management, attorney client relations and/ or general legal ethics. ~~This requirement is separate from any minimum continuing legal education (MCLE) requirement, and respondent shall not receive MCLE credit for attending these courses (Rule 8.28, Rules of Procedure of the State Bar).~~ Respondent may receive MCLE credit upon completion of the Law Office Management Course.
- c. ☐ Within 30 days of the effective date of the discipline, respondent shall 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 shall furnish satisfactory evidence of membership in the section to the Probation Unit of the Office of Chief Trial Counsel in the first report required.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: NORBERTO F. REYES

CASE NUMBER(S): 97-O-13344 and 01-O-00098

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the foregoing facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct:

Case No. 97-O-13344

1. From in or about November 1996, through in or about May 1997, Respondent maintained his client trust account at Wells Fargo Bank, account no. 0628-058802 (the "Wells Fargo Trust Account").
2. On or about February 20, 1997, Respondent issued check number 5531 from the Wells Fargo Trust Account in the amount of \$5,000 payable to Gordon Daskowski for "shrimp purchase".
3. The \$5,000 Respondent maintained in the Wells Fargo Trust Account to pay check number 5531 were Respondent's personal funds.
4. On or about March 3, 1997, Wells Fargo Bank paid the following checks that Respondent had issued against insufficient funds:

<u>Check No.</u>	<u>Check Amount</u>	<u>Date Presented</u>	<u>Account Balance</u>
5356	\$500	3/3/97	\$-173.97
5367	\$1,000	3/3/97	\$-173.97
5391	\$1,000	3/3/97	\$-173.97
5402	\$856.25	3/3/97	\$-173.97
5404	\$630	3/3/97	\$-173.97
5414	\$592.03	3/3/97	\$-173.97

5. On or about March 4, 1997 and March 5, 1997, Wells Fargo Bank returned the following checks that Respondent had issued from the Wells Fargo Trust Account due to insufficient funds:

<u>Check No.</u>	<u>Check Amount</u>	<u>Date Presented</u>	<u>Account Balance</u>
5415	\$189.64	3/4/97	\$-683.97
5560	\$3,552.50	3/4/97	\$-683.97
5587	\$2,000	3/4/97	\$-683.97
5589	\$1,000	3/4/97	\$-683.97
5591	\$13,000	3/4/97	\$-683.97
5584	\$22,500	3/5/97	\$3,536.74

LEGAL CONCLUSIONS

By maintaining personal funds in his client trust account, Respondent deposited commingled funds belonging to Respondent in a bank account labeled "Trust Account", "Client Fund Account", or words of similar import in wilful violation Rules of Professional Conduct, rule 4-100(A).

By failing to maintain sufficient funds in the Wells Fargo Trust Account and by issuing checks drawn upon the Wells Fargo Trust Account when Respondent should have known there were insufficient funds, Respondent failed to properly maintain his client trust account and protect client funds in wilful violation Rules of Professional Conduct, rule 4-100(A).

Case No. 01-O-00098

1. On or about October 27, 1999, Leodivico and Pacito Tumaneng ("the Tumanengs") employed Respondent to represent them as plaintiffs for injuries they sustained in an auto accident (the "personal injury matter").

2. Between in or about February 2000 and June 2000, Mercury Insurance Company ("Mercury") paid a total of \$3,711.01 to Respondent on behalf of Leodivico Tumaneng and a total of \$1,870.87 to Respondent on behalf of Pacito Tumaneng for medical payments.

3. On or about October 2, 2000, Respondent settled both of the Tumanengs' claims in the personal injury matter for a total amount of \$16,000. On that date, Respondent deposited a \$10,000 insurance draft and a \$6,000 insurance draft he received from the defendants in the personal injury matter into his client trust account, account no. 16646-02116 at Bank of America (the "Bank of America client trust account").

4. Between on or about October 2, 2000 and on or about October 16, 2000, Respondent issued the following checks on behalf of the Tumanengs from the Bank of America client trust account:

<u>Check No.</u>	<u>Amount</u>	<u>Date paid</u>	<u>Purpose</u>
3278	\$1,600	10/02/00	Respondent's attorney fees
3274	\$2,000	10/13/00	medical lien
3275	\$1,980	10/13/00	medical lien
3285	\$2,000	10/16/00	Respondent's attorney fees

5. After subtracting the total amount of \$7,580 in disbursements Respondent paid from the Tumanengs' \$16,000 in settlement funds, Respondent was required to maintain in the Bank of America client trust account a minimum of \$8,420, which was the remaining amount of the Tumanengs' settlement funds that had not yet been disbursed.

6. On or about October 25, 2000, Mercury wrote a letter to Respondent. In the letter, Mercury requested that Respondent reimburse Mercury the \$3,711.01 paid to Respondent on behalf of Leodivico Tumaneng and the \$1,870.87 paid to Respondent on behalf of Pacito Tumaneng for medical payments due to the fact the personal injury matter had been settled with the adverse party.

7. Beginning on or about November 2, 2000, the balance in the Bank of America client trust account fell below \$8,420 on repeated dates, including, but not limited to the following:

<u>Date</u>	<u>Balance</u>
11/02/00	\$7,254.09
11/03/00	\$6,754.09
11/13/00	\$6,304.09

8. On or about November 22, 2000 Respondent wrote check no. 3296 from the Bank of America account client trust made payable to Mercury in the amount of \$3,349.13 for "full medpay reimbursement - Leodivico and Pacito Tumaneng". The check was held and mailed on December 5, 2000. The Bank of America account subsequently became closed on or about November 29, 2000.

9. On or about December 28, 2000, Bank of America returned check no.3296 from Respondent's Bank of America client trust account to Mercury because the account had been closed on or about November 29, 2000.

10. On or about January 28, 2001, Respondent paid \$3,349.13 to Mercury for reimbursement of the medical payments it had paid to Respondent on behalf of the Tumanengs.

This payment replaced check no.3296 from the Bank of America client trust account that was returned because the account had been closed.

LEGAL CONCLUSIONS

By failing to maintain at least \$8,420 in the first Bank of America account beginning on or about November 2, 2000, Respondent wilfully failed to maintain client funds in a trust account in wilful violation Rules of Professional Conduct, rule 4-100(A).

By closing the Bank of America account before check no.3296 could be paid, Respondent failed to maintain client funds in a client trust account, in wilful violation of Professional Conduct, rule 4-100(A).

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(6), was by letter dated April 1, 2004
§1

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of **March 9, 2004**, the estimated prosecution costs in this matter are approximately **\$2,603**. Respondent acknowledges that this figure is an estimate only and that it does not include State Bar Court costs which will be included in any final cost assessment. 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.

Vaughn v. State Bar (1972) 6 Cal. 3d 847:

The attorney received a Public reproof for misconduct that included repeatedly allowing his client trust account to fall below the minimum balance he was required to maintain in it.

Fitzsimmons v. State Bar (1983) 34 Cal. 3d 327:

The attorney was found to be grossly negligent in handling estate assets by failing to maintain proper records. The court imposed a Public Reproof.

Respondent's misconduct warrants greater discipline because it occurred in early 1997 and then again from February 2000 through December 2000. Respondent also has a prior record of discipline, a private reproof.

Date

3/26/04

Respondent's signature

Norberto F. Reyes III

NORBERTO F. REYES III
print nameMarch 24, 2004
Date

Respondent's Counsel's signature

Joanne Earls Robbins

JOANNE EARLS ROBBINS
print name

Date

4/1/04

Deputy Trial Counsel's signature

Shari Sveningson

SHARI SVENINGSON
print name

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:

- ☐ The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- ☒ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.

All references to "Probation Unit" or "Probation Unit of the Office of the Chief Trial Counsel" shall be deemed deleted and replaced with "Office of Probation."

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 135(b), Rules of Procedure.) The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 953(a), California Rules of Court.)

Date

5/13/04

Judge of the State Bar Court

R. L. L. L.

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

I am a Case Administrator of the State Bar Court. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on May 19, 2004, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION
AND ORDER APPROVING, filed May 19, 2004**

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


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

**JOANNE EARLS ROBBINS
KARPMAN & ASSOCIATES
9200 SUNSET BLVD PH #7
LOS ANGELES, CA 90069**

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

Shari Sveningson, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **May 19, 2004**.


Milagro del R. Salmeron
Case Administrator
State Bar Court