


ORIGINAL

<p>Counsel for the State Bar THE STATE BAR OF CALIFORNIA OFFICE OF THE CHIEF TRIAL COUNSEL KIMBERLY G. ANDERSON, No. 150359 1149 SOUTH HILL STREET LOS ANGELES, CA 90015-2299</p>	<p>Case number(s) 97-0-17233 98-0-01862 98-0-01059</p> <p>PUBLIC MATTER</p> <p>kwiktag® 031 975 302</p> 	<p>(for Court's use)</p> <p>FILED</p> <p>DEC 05 2003 <i>ja</i></p> <p>STATE BAR COURT CLERKS OFFICE LOS ANGELES</p>
<p>Counsel for Respondent R. GERALD MARKLE PANSKY & MARKLE 1114 FREMONT AVE. SOUTH PASADENA, CA 91030</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</p> <p>TERRENCE McGUIRE</p> <p>Bar # 90675</p> <p>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 December 4, 1979.
(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 13 12 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:

(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 (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 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 Six (6) months

- 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 herein, 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~~ No CLIENT TRUST ACCOUNT SCHOOL REQUIRED. *MA*

(9) Other conditions negotiated by the parties:

(A) Respondent shall pay the \$500.00 monetary sanction imposed by the United States Court of Appeal, Ninth Circuit, in the Case entitled Oscar William Ponce v. INS, Case No. 96-70646 within 30 days of the effective date of the discipline herein.

(B) Respondent shall pay the \$500.00 monetary sanction imposed by the United States Court of Appeal, Ninth Circuit, in the case entitled Modesto Galvez v. INS, Case No. 96-70822 within 30 days of the effective date of the discipline herein.

(C) As a separate condition of his probation, Respondent shall submit proof of payment the Monetary Sanctions in the cases of Oscar William Ponce v. INS and Modesto Galvez v. INS to the Probation Unit with his first quarterly report that is due after payment of the sanctions.

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.

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Financial Conditions

- a. Respondent shall pay restitution to _____ [payee(s)] (or the Client Security Fund, if appropriate), in the amount(s) of _____, plus 10% interest per annum accruing from _____, and provide proof thereof to the Probation Unit, Office of the Chief Trial Counsel,
 - no later than _____
 - or
 - on the payment schedule set forth on the attachment under "Financial Conditions, Restitution."

- b. 1. If respondent possesses client funds at any time during the period covered by a required quarterly report, respondent shall file with each required report a certificate from respondent and/or a certified public accountant or other financial professional approved by the Probation Unit, certifying that:
 - a. respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";
 - b. respondent has kept and maintained the following:
 - i. a written ledger for each client on whose behalf funds are held that sets forth:
 - 1. the name of such client;
 - 2. the date, amount and source of all funds received on behalf of such client;
 - 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
 - 4. the current balance for such client.
 - ii. a written journal for each client trust fund account that sets forth:
 - 1. the name of such account;
 - 2. the date, amount and client affected by each debit and credit; and,
 - 3. the current balance in such account.
 - iii. all bank statements and cancelled checks for each client trust account; and,
 - iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.
 - c. respondent has maintained a written journal of securities or other properties held for clients that specifies:
 - i. each item of security and property held;
 - ii. the person on whose behalf the security or property is held;
 - iii. the date of receipt of the security or property;
 - iv. the date of distribution of the security or property; and,
 - v. the person to whom the security or property was distributed.

- 2. If respondent does not possess any client funds, property or securities during the entire period covered by a report, respondent must so state under penalty of perjury in the report filed with the Probation Unit for that reporting period. In this circumstance, respondent need not file the accountant's certificate described above.

- 3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

No CLIENT TRUST ACCOUNT School REQUIRED. JCA

- c. Within one (1) year of the effective date of the discipline herein, respondent shall supply to the Probation Unit satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: TERRENCE MCGUIRE

CASE NUMBER(S): 97-O-17233, 98-O-01862 and 98-O-01059

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.

A. Case No. 97-O-17233:

1. On or about June 18, 1996, the United States Court of Appeals for the Ninth Circuit issued a decision in a case entitled, *Galo-Garcia v. Immigration and Naturalization Service* (9th Cir. 1996) 86 F.3d 916 holding that the Board of Immigration Appeals lacked jurisdiction over an alien's request for safe haven and nonreturn under customary international law. Respondent represented the alien in that case.

2. On or about August 13, 1996, Respondent filed a Petition for Review before the United States Court of Appeals for the Ninth Circuit ("Ninth Circuit") in the case entitled *Oscar William Ponce v. Immigration and Naturalization Service*, Case No. 96-70646 ("*Ponce v. INS*"). In the Petition, Respondent claimed the alien was entitled to safe haven and nonreturn under customary international law. Respondent also failed to disclose to the Ninth Circuit that the decision in *Galo-Garcia* was controlling authority.

3. On or about April 22, 1997, the Ninth Circuit ordered Respondent to show cause in writing within 21 days why he should not be sanctioned for filing a frivolous petition for review and for his failure to disclose controlling legal authority to the Court in *Ponce v. INS*.

4. Respondent did not respond to the order to show cause.

5. On or about October 14, 1997, the Ninth Circuit imposed a monetary sanction in the amount of \$500.00 on Respondent for failure to comply with the Ninth Circuit's order. The \$500.00 sanction was payable within 21 days.

6. Respondent did not pay the \$500.00 sanction to the Ninth Circuit in *Ponce v. INS*.

7. By the foregoing conduct, Respondent wilfully violated Business and Professions Code, sections 6103 and 6068(b).

B. Case No. 98-O-01862:

FACTS AND CONCLUSIONS OF LAW RELATING TO RESPONDENT'S FAILURE TO PROMPTLY PAY OUT FUNDS TO CLAUDIA CASTILLO'S MEDICAL PROVIDERS:

8. Claudia F. Castillo ("Castillo") hired Respondent to represent her on a contingent fee basis in an claim for personal injuries sustained as a result of an automobile accident that occurred on or about May 15, 1996.

9. On or about May 2, 1997, Respondent deposited \$15,000.00 in settlement funds into his Wells Fargo Bank client trust account no. 0710-041915 ("CTA") on behalf of client Claudia F. Castillo ("Castillo") from the Automobile Club of Southern California ("Automobile Club"), the insurance carrier for the driver of the other automobile.

10. On or about May 30, 1997, Castillo approved disbursement of the \$15,000.00 whereby she would receive \$7,000.00, Respondent would receive \$5,000.00 as his fees, and \$1,500.00 would be paid to Cecil J. Folmar, M.D. ("Dr. Folmar") and \$1,500.00 to Anthony F. Yipp, M.D. ("Dr. Yipp"), for payment of medical liens.

11. Respondent paid himself and Castillo promptly. Respondent was required to maintain at least \$3,000.00 in his CTA at all times until he paid Dr. Follmer and Dr. Yipp on behalf of Castillo.

12. On or about August 12, 1997, the balance in Respondent's CTA dipped below the \$3,000.00 Respondent was required to hold in trust on behalf of Castillo and her two medical providers, Dr. Folmer and Dr. Yipp. On or about August 12, 1997, the balance in Respondent's CTA was \$2,619.71.

13. Respondent did not pay Dr. Folmar or Dr. Yipp until on or about August 5, 1999, more than 26-months after he received funds and instructions for those two payments.

14. By the foregoing conduct, Respondent wilfully failed to pay client funds promptly as requested by his client in violation of rule 4-100(B)(4).

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Page #

Attachment Page 2

FACTS AND CONCLUSIONS OF LAW RELATING TO RESPONDENT'S FAILURE TO MAINTAIN ENTRUSTED FUNDS IN HIS CTA:

15. On or about April 14, 1997, Respondent deposited \$40,000.00 into his CTA on behalf of his client Jose Francisco Rodriguez ("Rodriguez"). From this amount, Respondent was required to hold not less than \$31,088.71 for Rodriguez, for Rodriguez' investigative costs and for Rodriguez' two medical liens.

16. On or about April 16, 1997, Respondent issued check no. 1988 from his CTA in the amount of \$800.00 payable on behalf of Rodriguez for investigative expenses relating to Rodriguez' case. Therefore, Respondent was required to maintain not less than \$30,288.71 in his CTA for Rodriguez and his two medical providers. On or about April 18, 1997, Respondent issued check no. 1989 in the amount of \$6,000.00 to himself from the CTA and deposited it into his personal checking account. The check no. 1989 cleared that same day, leaving the CTA balance on April 18, 1997 at \$24,112.35. This left the CTA short by \$6,176.36 of the \$30,288.71 owed on behalf of Rodriguez.

17. On or about April 29, 1997, the balance in this CTA dropped to \$21,362.35. This left the CTA short by \$8,926.36 of the \$30,288.71 owed on behalf of Rodriguez.

18. On or about May 2, 1997, Respondent deposited \$15,000.00 into his CTA on behalf of Castillo and \$7,500.00 on behalf of client Roberto Re ("Re"). Respondent was entitled to \$5,000.00 for his fee from Castillo, leaving \$10,000.00 which Respondent was required to maintain in the CTA for client Castillo and Castillo's two medical liens. Respondent was required to hold at least \$4,950.00 in his CTA for Re and Re's two medical liens. On or about May 2, 1997, Respondent was still required to hold not less than \$30,288.71 owed on behalf of Rodriguez.

19. On or about May 2, 1997, the combined balance owed from the CTA on behalf of Rodriguez, Castillo and Re was thus \$45,238.71. However, the balance in the CTA that day was only \$41,162.35, a shortage of at least \$4,626.36.

20. By on or about May 22, 1997, the balance had dropped to \$29,312.35, a shortage of \$15,926.36 against the \$45,238.71 that Respondent owed on behalf of the three clients.

21. On or about June 6, 1997, the balance reached \$34,177.71. At that time, Respondent owed \$30,288.71 to Rodriguez, \$3,000.00 to Castillo and \$1,950.00 to Re. The total owed on behalf of those three clients was \$35,238.71, for a shortage of \$1,061.00.

22. As of on or about June 18, 1997, the balance owed to client Rodriguez had dropped to \$5,288.71, so that the balance owed to the three clients was \$17,950.00. The CTA balance

that day was \$6,194.71, a shortage of \$11,755.29.

23. On or about June 20, 1997, Respondent deposited \$6,250.00 into his CTA on behalf of client Noe Contreras ("Contreras"). Respondent was required to hold at least \$4,125.00 in the CTA for Contreras and one medical lien. On June 20, 1997, the balance owed to clients Rodriguez, Castillo, Re, and Contreras thus became \$14,363.71. The actual balance in the CTA on June 20, 1997 was \$12,444.71, a shortage of \$1,919.00.

24. As of July 11, 1997, the balance owed to Contreras had been paid down to \$1,850.00, leaving the total balance owed on behalf of the four clients at \$12,088.71. The actual balance in the CTA that day was \$4,119.71, a shortage of \$7,969.00.

25. On or about August 12, 1997, the CTA balance dropped to \$2,619.71, making a shortage of \$9,469.00 from the \$12,088.71 owed to the four clients.

26. On or about August 14, 1997, the CTA became solvent for the first time in four months, but the solvency lasted only 22 days. On or about September 5, 1997, the balance dipped again to \$10,555.92, for a shortage of \$1,532.79. On or about September 25, 1997, Respondent issued a check on behalf of Rodriguez for \$2,838.71 bringing the amount Respondent was required to hold in the CTA on behalf of the four clients to \$9,250.00, but the CTA balance dipped to \$7,117.21, for a shortage of \$2,132.79.

27. On or about September 26, 1997, the CTA became solvent again for another brief period of time of 19 days, ending on or about October 15, 1997. On or about October 15, 1997, the CTA balance should have been at least \$9,250.00, consisting of \$3,000.00 owed on behalf of Castillo, \$1,850.00 owed on behalf of Contreras, \$1,950.00 owed on behalf of Re, and \$2,450.00 owed on behalf of Rodriguez. However, the CTA balance on October 15, 1997, dropped to \$7,210.21, a shortage of \$2,039.79.

28. On or about October 31, 1997, the balance in the CTA was \$6,260.21, leaving a shortage in the CTA of \$2,989.79.

29. On or about November 3, 1997, the CTA again became solvent, but only for 18 days. On or about November 21, 1997, the balance in the CTA dropped to \$7,526.21, a shortage of \$1,723.79.

30. On or about December 11, 1997, the CTA became solvent for 28 days until on or about January 8, 1998, when the balance dropped to \$7,006.21, a shortage of \$2,243.79. The shortage then increased to \$3,243.79 on or about March 19, 1998, The CTA finally became solvent again on or about April 9, 1998.

31. The CTA was thus insolvent for at least 267 days of the 356 days between on or about April 18, 1997 and on or about April 9, 1998.

32. By the foregoing misconduct, Respondent wilfully violated rule 4-100(A) of the Rules of Professional Conduct.

C. Case No. 98-O-01059:

32. On or about June 18, 1996, the United States Court of Appeals for the Ninth Circuit issued a decision in a case entitled, *Galo-Garcia v. Immigration and Naturalization Service* (9th Cir. 1996) 86 F.3d 916 holding that the Board of Immigration Appeals lacked jurisdiction over an alien's request for safe haven and nonreturn under customary international law. Respondent represented the alien in that case.

33. On or about October 9, 1996, Respondent filed a Petition for Review before the United States Court of Appeals for the Ninth Circuit ("Ninth Circuit") in the case entitled *Modesto Galvez v. Immigration and Naturalization Service*, Case No. 96-70822 ("Galvez v. INS"). In the Petition, Respondent claimed the alien was entitled to safe haven and nonreturn under customary international law. Respondent also failed to disclose to the Ninth Circuit that the decision in *Galo-Garcia* was controlling authority.

34. On or about April 22, 1997, the Ninth Circuit ordered Respondent to show cause in writing within 21 days why he should not be sanctioned for filing a frivolous petition for review and for his failure to disclose controlling legal authority to the Court in *Modesto Galvez v. Immigration and Naturalization Service*, Case No. 96-70822 ("Galvez v. INS").

35. Respondent did not respond to the order to show cause.

36. On or about October 14, 1997, the Ninth Circuit imposed a monetary sanction in the amount of \$500.00 on Respondent for failure to comply with the Ninth Circuit's order. The \$500.00 sanction was payable within 21 days.

37. Respondent did not pay the \$500.00 sanction to the Ninth Circuit in *Galvez v. INS*.

38. By the foregoing conduct, Respondent wilfully violated Business and Professions Code, sections 6103 and 6068(b).

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(6), was October 3, 2003.

10/15/03
Date

Terrence McGuire
Respondent's signature

TERRENCE MCGUIRE
print name

Date

Respondent's Counsel's signature

print name

Date

Deputy Trial Counsel's signature

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.

SEE BELOW

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

The court notes that Respondent has no prior record of discipline.

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.)

12/5/03
Date

Alban Miles
Judge of the State Bar Court

10/15/03
Date

Terrence McGuire
Respondent's signature

TERRANCE MCGUIRE
print name

10-15-03
Date

[Signature]
Respondent's Counsel's signature

R. GERALD MARKLE
print name

10-20-03
Date

[Signature]
Deputy Trial Counsel's signature

KIMBERLY G. ANDERSON
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.

SEE BELOW

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

The court notes that Respondent has no prior record of discipline.

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 13.1(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.)

12/5/03
Date

Alban J. Niles
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. 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 December 5, 2003, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION
AND ORDER APPROVING, filed December 5, 2003**

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:

**R GERALD MARKLE ESQ
PANSKY & MARKLE
1114 FREMONT AVE
SOUTH PASADENA CA 91030**

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

KIMBERLY ANDERSON, ESQ., Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 5, 2003.



Angela Owens-Carpenter
Case Administrator
State Bar Court