

<p>Counsel for the State Bar                  THE STATE BAR OF CALIFORNIA                  OFFICE OF THE CHIEF TRIAL                  COUNSEL, ENFORCEMENT                  MURRAY B. GREENBERG, No. 142678                  1149 South Hill Street                  Los Angeles, CA 90015-2299                  Telephone: (213) 765-1000</p>	<p>Case number(s) 02-0-15550</p> <p><b>PUBLIC MATTER</b></p> <p>kwiktag® 022 807 397</p> 	<p>(for Court's use)</p> <p><b>FILED</b></p> <p>SEP 25 2003</p> <p>STATE BAR COURT                  CLERK'S OFFICE                  LOS ANGELES</p>
<p>Counsel for Respondent <i>B Jer</i>                  JoAnne E. Robbins, No. 82352                  Karpman &amp; Associates                  9200 Sunset Blvd., PH #7                  Los Angeles, CA 90069</p>	<p>Submitted to <input checked="" type="checkbox"/> assigned judge <input 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 L. Butler</p> <p>Bar # 113383</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 June 13, 1984  
 (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:  
2004 and 2005  
 (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 Sections 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:

See page 10.

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D. Discipline

1. Stayed Suspension.

A. Respondent shall be suspended from the practice of law for a period of one 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 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
- (9)  Other conditions negotiated by the parties:  
Respondent recently completed Ethics School Client Trust Accounting School ("CTA School"), therefore it is not recommended that he attend CTA School.

- 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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02-0-15550

Medical Conditions

- a.  Respondent shall obtain psychiatric or psychological help/ treatment from a duly licensed psychiatrist, psychologist, or clinical social worker at respondent's own expense a minimum of one times per month and shall furnish evidence to the Probation Unit that respondent is so complying with each quarterly report. Help/treatment should commence immediately, and in any event, no later than thirty (30) days after the effective date of the discipline in this matter. Treatment shall continue for ~~xxx days or xxx months or~~ one year ~~or~~ ~~the period of probation~~ or until a motion to modify this condition is granted and that ruling becomes final.

If the treating psychiatrist, psychologist, or clinical social worker determines that there has been a substantial change in respondent's condition, respondent or Office of the Chief Trial Counsel may file a motion for modification of this condition with the Hearing Department of the State Bar Court, pursuant to rule 550 of the Rules of Procedure of the State Bar. The motion must be supported by a written statement from the psychiatrist, psychologist, or clinical social worker, by affidavit or under penalty of perjury, in support of the proposed modification.

- b.  Upon the request of the Probation Unit, respondent shall provide the Probation Unit with medical waivers and access to all of respondent's medical records. Revocation of any medical waiver is a violation of this condition. Any medical records obtained by the Probation Unit shall be confidential and no information concerning them or their contents shall be given anyone except members of the Office of the Chief Trial Counsel, including the Probation Unit, and the State Bar Court, who are directly involved with maintaining, enforcing or adjudicating this condition.

This waiver shall be limited to psychological or psychiatric records.

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**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/~~ 6 months ~~\_\_\_ years~~ 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 3201, Rules of Procedure of the State Bar.)
- 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 1 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:       TERRENCE BUTLER  
CASE NUMBER(S):        02-O-15550

**FACTS AND CONCLUSIONS OF LAW.**

Case No. 02-O-15550

Facts

1. In or about March 1998, Mario Hernandez ("Hernandez") employed Respondent on a 40% contingency basis to represent him in a personal injury matter.
2. In or about January 2000, Respondent received <sup>JER</sup> \$1,000,000 in settlement proceeds in Hernandez's case which was deposited into his Bank of America Client Trust Account number 16645-31497 ("CTA") on or about January 27, 2000.
3. On or about February 4, 2000, Respondent issued check number 2115 to Hernandez in the amount of \$354,500 which represented the client's share of the settlement proceeds.
4. On or about February 4, 2000, Respondent issued check number 2118 to John Donlou, M.D. in the amount of \$9,135.45 which represented the medical provider's lien on the Hernandez case.
5. On or about March 13, 2000, Respondent issued check number 2117 to National Union in the amount of \$175,000 which represented the worker's compensation lien on the Hernandez case.
6. Between February 9, 2000 and March 3, 2000, the balance in the CTA fell below the requisite amount which should have remained in the account reaching a low of \$18,027.44 on February 29, 2000. *The remainder of the settlement was properly distributed after that time.*

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7. In or about August 2000, Respondent borrowed \$75,000 from Hernandez without providing the terms of the transaction in writing, advising Hernandez to seek advice From an independent attorney, or obtaining Hernandez's written consent to the terms of the transaction.
8. By the time of the loan, all funds had been distributed from Hernandez's settlement, and Respondent did not believe that the business transaction requirements applied. In or about November 2000, Respondent paid back the loan to Hernandez with an additional \$7,500 in interest.

### LEGAL CONCLUSIONS

By negligently allowing his CTA to drop below the requisite amount which should have remained on deposit on Hernandez's behalf, Respondent failed to maintain funds in a client trust account for the benefit of his client in wilful violation of Rules of Professional Conduct, rule 4-100(A). Additionally, by entering into a business transaction with Hernandez without transmitting in writing: the terms of the transaction, advise that Hernandez may seek independent counsel and obtaining the written consent of Hernandez to the terms of the transaction, Respondent wilfully violated Rules of Professional Conduct, rule 3-300.

Respondent admits that the foregoing facts are true and that he is culpable of violations of the specified Rules of Professional Conduct.

### PENDING PROCEEDINGS.

There are no pending investigations/proceedings as of August 15, 2003, the disclosure date referred to on page one, paragraph A.(6).

Although this case involved a misappropriation of funds and interests adverse to a client which would normally carry greater discipline, it is agreed by the parties that Respondent acted negligently in the manner in which he handled his client trust account rather than with any intent to unjustly enrich himself. The period of time during which the account fell below the amount which should have been maintained in trust was less than a month and the client had previously been paid his share and was not harmed by the short delay in payment to satisfy the worker's compensation lien. Additionally, although Respondent recognizes in hindsight that having the appropriate writings would have been a much better procedure in obtaining the loan money from Hernandez, the terms of the loan were beneficial to Hernandez, the loan proceeds were paid back in a timely manner with substantial interest and there was no intent to take unfair advantage of Hernandez.

## **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of August 15, 2003, the estimated prosecution costs in this matter are approximately \$1,983.00. 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.

The parties stipulate that the costs are to be paid in two equal amounts, one being added to and becoming part of the membership fees for each of the years 2004 and 2005.

## **ADDITIONAL MITIGATING CIRCUMSTANCES**

Respondent volunteered his time as a Los Angeles Municipal Court Judge Pro Tem between 1991 and 1997. He is a member of the American Trial Lawyers Association and the Consumer Attorneys Of California (CAOC). Respondent has been a speaker at CAOC conventions and also published an article in the CAOC magazine, the "Advocate." He has participated in community lecture programs by CAOC, to educate people about their legal rights.

Respondent was an Adjunct Professor of Law at the University of West Los Angeles from 1988 through 1994, and has lectured at an "after class" seminar at USC School of Law. He organized and chaired the "After the Verdict Symposium," following the Rodney King riots in Los Angeles in 1992, which included national speakers such as Congresswoman Maxine Waters.

Respondent was on the organizing committee of the 2000 World Burn Congress in San Francisco, and was a speaker at the World Burn Congress in Philadelphia in 1997. He is a sponsor of the Children's Burn Foundation, and has been a volunteer for the Burn Institute of San Diego, Shriner's Hospital and the County-USC burn unit in Los Angeles. He has been a speaker at the UCSD hospital burn unit in San Diego. Respondent has chaperoned busses for burned children at the annual Alisa Ann Ruch Champ Camp for burned children in Fresno. Respondent was a member of the board of directors of the Orange County Burn Association, and has been a member of the American Burn Association since 1997.

Since 1996, Respondent has accepted the cases of approximately a dozen burn survivors, charging no legal fees of any kind, and has also paid all costs of these cases, including filing fees.

Date 08-16-2003

  
Respondent's signature

TERRENCE L. BUTLER  
print name

Date August 16, 2003

  
Respondent's Counsel's signature

JOANNE E. ROBBINS  
print name

Date AUGUST 20, 2003

  
Deputy Trial Counsel's signature

MURRAY B. GREENBERG  
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.

1. On page 1, paragraph A. (7), after "[x] costs to be paid in equal amounts prior to February 1 of the following membership years:", delete "2004 and" and insert after "2005" - "and 2006."
2. On page 10, at the end of the second paragraph under "COSTS OF DISCIPLINARY PROCEEDINGS.", delete "2004 and" and insert after "2005" - "and 2006."

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 9/25/03

  
RICHARD A. HONN  
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 September 25, 2003, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION  
AND ORDER APPROVING, filed September 25, 2003**

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

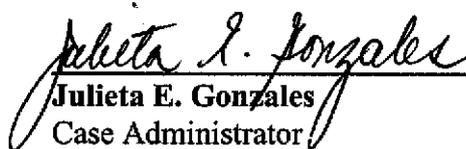
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**JOANNE E ROBBINS ATTORNEY AT LAW  
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:

**Murray B. Greenberg, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **September 25, 2003**.

  
\_\_\_\_\_  
**Julieta E. Gonzales**  
Case Administrator  
State Bar Court