

Counsel for the State Bar OFFICE OF THE CHIEF TRIAL COUNSEL JOSEPH R. CARLUCCI, No. 172709 STATE BAR OF CALIFORNIA 1149 SOUTH HILL STREET LOS ANGELES, CA 90015 (213) 765-1053	Case number(s) 97-0-16404-PEM  kwiktag* 022 607 380 	(for Court's use)  <b>PUBLIC MATTER</b>  <b>FILED</b> SEP 30 2003 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
Counsel for Respondent R. GERALD MARKLE, No. 71816 PANSKY & MARKLE 1114 FREMONT AVENUE SOUTH PASADENA, CA 91030 (213) 626-7300	Submitted to <input type="checkbox"/> assigned judge <input checked="" type="checkbox"/> settlement judge  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  ACTUAL SUSPENSION  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of  PAUL GROSSMAN  Bar # 53660 A Member of the State Bar of California (Respondent)		

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted DECEMBER 14, 1972  
 (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 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):

- until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
- 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 91-0-00793; 94-0-10192

(b)  date prior discipline effective MAY 1, 1996

(c)  Rules of Professional Conduct/ State Bar Act violations: RULE 3-110(A) and 4-100(B)(4),

RULES OF PROFESSIONAL CONDUCT

(d)  degree of prior discipline PRIVATE REPROVAL, PUBLIC DISCLOSURE

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

84-0-00197

OCTOBER 15, 1985

FORMER RULE 8-107, RULES OF PROFESSIONAL CONDUCT

PRIVATE REPROVAL

- (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)  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:**

The events underlying the misconduct took place many years ago, between 1977 and 1981; there has been no similar misconduct at any time in the intervening years; and Respondent and Plaintiff, Allstate Insurance Company reached a financial settlement in the underlying civil matter, and Respondent has fully satisfied the civil judgment against him.

D. Discipline

1. Stayed Suspension.

A. Respondent shall be suspended from the practice of law for a period of EIGHTEEN (18) 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 THREE (3) YEARS which shall commence upon the effective date of the Supreme Court order herein. (See rule 953, California Rules of Court.)

3. Actual Suspension.

A. Respondent shall be actually suspended from the practice of law in the State of California for a period of SIXTY (60) DAYS

- 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: \_\_\_\_\_

E. Additional Conditions of Probation:

- (1)  If Respondent is actually suspended for two years or more, he/she shall remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2)  During the probation period, Respondent shall comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3)  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.
- (4)  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.

- (5)  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.
- (6)  Subject to assertion of applicable privileges, Respondent shall answer fully, promptly and truthfully any inquiries of the Probation Unit [REDACTED] 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.
- (7)  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.
- (8)  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.
- (9)  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             |
- (10)  Other conditions negotiated by the parties:
- 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 [REDACTED] during the period of actual suspension or within one year, whichever period is longer. 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.
- Rule 955, California Rules of Court: Respondent shall comply with the provisions of subdivisions (a) and (c) of rule 955, California Rules of Court, within 30 and 40 days, respectively, from the effective date of the Supreme Court order herein.
- Conditional Rule 955, California Rules of Court: If Respondent remains actually suspended for 90 days or more, he/she shall comply with the provisions of subdivisions (a) and (c) of rule 955, California Rules of Court, within 120 and 130 days, respectively, from the effective date of the Supreme Court order herein.
- Credit for Interim Suspension [conviction referral cases only]: Respondent shall be credited for the period of his/her interim suspension toward the stipulated period of actual suspension.

**ATTACHMENT TO**

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF:      PAUL GROSSMAN

CASE NUMBER(S):      97-O-16404

**FACTS AND CONCLUSIONS OF LAW.**

Respondent admits the following facts are true and that he wilfully violated Business and Professions Code, section 6106.

On or about March 1, 1984, Allstate Insurance Company ("Allstate") and State Farm Mutual Automobile Insurance Company ("State Farm") together commenced a lawsuit in United States Federal District Court, Central District, alleging fraud against numerous chiropractors, physical therapy clinics, clinic employees, an insurance agent, and several attorneys, including Respondent. In their complaint, Allstate and State Farm sought to recover damages from the defendants under the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. Section 1964(c) ("RICO"), and state common law actions for fraud and conspiracy to defraud. The case was assigned to United States District Court Judge Robert Takasugi.

In their complaint, plaintiffs Allstate and State Farm alleged that beginning in or about December 1977 and continuing until in or about April 1981, each of the defendants conspired with one another to establish and operate, and did in fact establish and operate, an organized enterprise through which the defendants intentionally and systematically defrauded insurance companies, specifically Allstate and State Farm, through the submission and pursuit of numerous fabricated automobile personal injury insurance claims against both companies' insureds.

Following years of discovery, on or about September 26, 1990, Judge Takasugi ordered that defendants' statute of limitations defense be bifurcated from the issues of liability and damages. On or about February 25, 1992, a court trial on the statute of limitations defense commenced before Judge Takasugi. On or about August 5, 1994, Judge Takasugi ruled that the civil RICO claims of plaintiff Allstate were barred by the statute of limitations and dismissed them as to certain defendants, including Respondent. However, State Farm's RICO cause of action against the defendants, including Respondent, was not barred by the statute of limitations as it pertained to fraudulent insurance claims made by the defendants against State Farm insureds James Hommon, James Norman, and Dennis Powell. In a later order, entered February 3, 1995, Judge Takasugi further ruled that the statute of limitations did not bar the state fraud and conspiracy claims of Allstate, but did bar those of State Farm, as to certain defendants, including Respondent.

On or about May 15, 1995, the court trial on the issues of liability and damages commenced before Judge Takasugi. On or about September 30, 1997, Judge Takasugi rendered his decision wherein he ruled that Allstate Insurance Company proved its state fraud claims against each of the defendants, including Respondent, by clear and convincing evidence. Similarly, Judge Takasugi ruled that Allstate proved its conspiracy to defraud claims against each of the defendants, including Respondent and that State Farm proved its surviving RICO claim against the defendants, including Respondent, though Judge Takasugi did not state whether those claims were proved by clear and convincing evidence or by a preponderance of the evidence.

Specifically, Judge Takasugi found that the evidence presented by Allstate and State Farm established that from approximately December 1977 to April 1981, the defendants, including Respondent, established and operated a "RICO" enterprise, to wit: an enterprise affecting interstate commerce through which defendants intentionally and systematically carried out a scheme to defraud Allstate and State Farm through the submission of fraudulent automobile insurance claims submitted to the insurance companies via the United States Mail.

Based upon the evidence presented at trial, Judge Takasugi determined that the enterprise was masterminded and managed by chiropractor Ronald Jerome Revere, and consisted of an association of chiropractors, clinics, attorneys, including Respondent, and their employees, working together to create and submit to insurance companies false medical and billing records to support fabricated, staged and/or otherwise fraudulent automobile insurance claims. Judge Takasugi concluded that all of the 44 personal injury claims submitted by the Revere enterprise to Allstate and all 23 claims submitted to State Farm were fraudulent claims knowingly submitted to those insurance companies via the members of the fraud enterprise.

On or about November 6, 1997, judgment was entered against Respondent on Allstate's fraud and conspiracy to defraud causes of action and State Farm's RICO cause of action.

Respondent then filed an appeal of the judgment with the United States Court of Appeal, Ninth Circuit. On or about December 26, 2000, the United States Court of Appeals, Ninth Circuit rejected the defendants' appeals, including Respondent's, and affirmed Judge Takasugi's judgment in favor of Allstate and State Farm, with the exception of the punitive damages awards, which were remanded.

Between 1977 and 1981, Respondent accepted personal injury case referrals from members of the Revere enterprise. At the time Respondent accepted these cases, he knew of the fraudulent objectives of the Revere enterprise.

From in or about December 1977 to in or about April 1981, Respondent, as the attorney for clients fraudulently claiming injuries, willfully submitted, pursued and made demand for payment to Allstate on at least 24 separate insurance claims that he knew were false, inflated, or otherwise fraudulent.

Respondent was aware at the time he accepted and submitted these fraudulent claims to Allstate that the claims had been fabricated by members of the Revere insurance fraud enterprise. The 24 false, inflated, or otherwise fraudulent insurance claims made by Respondent were made against the following Allstate insureds:

- |                             |                    |
|-----------------------------|--------------------|
| a. Charles Little           | m. Jack Golding    |
| b. Ken McClellan            | n. Margaret Barnes |
| c. Gwen Crawford            | o. Janice Guidry   |
| d. Ann McCollum             | p. William Hardin  |
| e. William Neal             | q. Marsha Harper   |
| f. Sherman Delivery Service | r. Stanley Huggins |
| g. Times Mirror Co.         | s. J&S Television  |
| h. Thrifty Rent-a-Car       | t. Alma Johnson    |
| i. Sylvia Whigham           | u. Victor Dorsey   |
| j. Alvin Alexander          | v. Charles Barsony |

k. Julette Asbill

w. Eleanor Cosper

l. Chicago Hotel

x. Debra Rhymes

Respondent and the Revere insurance fraud enterprise collected approximately \$141,489 from Allstate in settlement of the 24 false and fraudulent personal injury claims.

#### LEGAL CONCLUSIONS

By submitting and making demand for payment from Allstate Insurance Company on at least 24 fraudulent personal injury claims, knowing that said claims were false, inflated, or otherwise fraudulent, Respondent committed acts of fraud, and thereby committed acts, involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

#### ADDITIONAL FACTS

On or about October 14, 1997, Respondent, through his attorney, advised the State Bar in writing of Judge Takasgui's verdict in the United States District court matter, in compliance with Business and Professions Code, section 6068(o)(2). Consequently, the State Bar initiated an investigation resulting in the within State Bar Court matter.

Respondent has made restitution to Allstate and State Farm insurance companies, and has satisfied the judgment against him. On or about November 21, 2002, Respondent finalized an out of court settlement with the plaintiffs. As part of the settlement, Respondent paid the companies a total of \$187,733.

#### PENDING PROCEEDINGS.

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

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**AUTHORITIES SUPPORTING DISCIPLINE.**

Standard 2.3, *Standards for Attorney Sanctions for Professional Misconduct*

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Page #

9/19/03  
Date

  
Respondent's signature

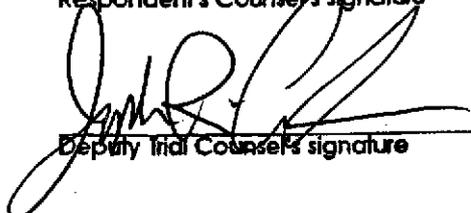
PAUL GROSSMAN  
print name

9-22-03  
Date

  
Respondent's Counsel's signature

R GERALD MARKLE  
print name

9/23/03  
Date

  
Deputy Trial Counsel's signature

JOSEPH R CARLUCCI  
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.

The Court hereby modifies the Stipulation by placing an "X" in the box at paragraph E(4) on page 4 of the Stipulation, thereby adding a probation requirement that Respondent submit written quarterly probation reports to the 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.)

9/29/03  
Date

  
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 San Francisco, on September 30, 2003, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION  
AND ORDER APPROVING**

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

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

**ELLEN ANNE PANSKY  
PANSKEY & 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:

**JOSEPH CARLUCCI, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **September 30, 2003**.

  
**George Hue**  
Case Administrator  
State Bar Court