State Bar Court of the State Bar of California
Hearing Department: ☒ Los Angeles ☐ San Francisco
PILOT PROGRAM FOR RESPONDENTS WITH SUBSTANCE ABUSE AND MENTAL HEALTH ISSUES

ORIGINAL

Counsel for the State Bar	Case Number(s)	(for Court use)
THE STATE BAR OF CALIFORNIA OFFICE OF THE CHIEF TRIAL COUNSEL DAVID T. SAUBER, No. 176554 1149 South Hill Street, 10th Floor Los Angeles, California 90015-2299 Telephone: (213) 765-1252	99-O-10687 00-O-11009 00-O-12825	~~CONFIDENTIAL~~
	PUBLIC MATTER	
Counsel for Respondent Arthur Lewis Margolis Margolis & Margolis LLP 2000 Riverside Dr Los Angeles, CA 90039 3758	**FILED** OCT 29 2008 STATE BAR COURT CLERK'S OFFICE LOS ANGELES	**LODGED** MAR 11 2005 STATE BAR COURT CLERK'S OFFICE LOS ANGELES
In the Matter of Paul Harold Ottosi Bar # 69250 A Member of the State Bar of California (Respondent)	Submitted to Pilot Program Judge STIPULATION RE FACTS AND CONCLUSIONS OF LAW ☐ PREVIOUS STIPULATION REJECTED	kwiktag ® 018 036 929

A. Parties' Acknowledgments:

(1) Respondent is a member of the State Bar of California, admitted June 25, 1976 (Date).

(2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, if Respondent is not accepted into the Lawyer Assistance Program, this stipulation will be rejected and will not be binding on Respondent or the State Bar.

(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." This stipulation consists of 9 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 and will pay timely any disciplinary costs imposed in this proceeding.

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 (attachment) of this stipulation under specific headings, i.e., "Facts", "Dismissals", "Conclusions of Law."

B. Aggravating Circumstances [illegible]dards for Attorney Sanctions for Profess[illegible]l 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 Action 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 the victims of his/her misconduct or the State Bar during disciplinary investigation or proceedings.

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

(8) ☐ No aggravating circumstances are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [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 of 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 were directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drugs 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:

Respondent enters into this stipulation as a condition of his/her participation in the Pilot Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Pilot Program Contract.

If the Respondent is not accepted into the Pilot Program or does not sign the Pilot Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

If the Respondent is accepted into the Pilot Program, upon Respondent's successful completion of or termination from the Program, this Stipulation will be filed and the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Statement Re: Discipline shall be imposed or recommended to the Supreme Court.

11-24-04	Paul Ottosi	Paul Harold Ottosi
Date	Respondent's Signature	Print Name
11/27/4	Arthur L. Margolis	Arthur L. Margolis
Date	Respondent's Counsel Signature	Print Name
12-1-04		David T. Sauber
Date	Deputy Trial Counsel's Signature	Print Name

ATTACHMENT TO

STIPULATION RE FACTS AND CONCLUSIONS OF LAW

IN THE MATTER OF: PAUL HAROLD OTTOSI

CASE NUMBERS: 99-O-10687; 99-O-11009; 00-O-12825

FACTS AND CONCLUSIONS OF LAW:

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

Facts for Case No. 99-O-10687:

1. At all times relevant herein, Respondent had a client trust account no. 1143370409 at Coast Federal Bank ("CTA").

2. In mid-1996, Judge Patrick Murphy contacted Respondent regarding his decision to file for divorce. Judge Murphy asked Respondent to hold funds in escrow during the pendency of the dissolution action.

3. On or about December 30, 1996, Respondent received a telephone call from a man identifying himself as Dr. George Taus ("Taus"). Taus informed Respondent, that Taus, like Respondent, was a friend of Judge Murphy. Taus also stated that he was requesting on behalf of Judge Murphy the name of Respondent's bank and the account number of his trust account. Respondent provided that information with the understanding that Judge Murphy would subsequently provide the funds which he wanted Respondent to hold.

6. On or about December 30, 1996, $1,855,000.00 ("the money") was wired into Respondent's CTA.

7. In or about the first week in January 1997, Judge Murphy informed Respondent for the first time that Taus wired Taus's money into Respondent's CTA and that the money was not Judge Murphy's money. Respondent demanded that the funds be removed immediately. Judge Murphy informed Respondent that the money would be moved out of Respondent's CTA immediately.

8. Between in or about the first week in January 1997 until on or about January 22, 1997, Respondent and Judge Murphy had several conversations in which Judge Murphy informed Respondent that Taus had a tax issue which prevented Taus from taking the money back right away and that Taus wanted Respondent to give the money to Taus's friend Maryanne Baumgarten Bender ("Baumgarten"). Respondent states that he was told that Baumgarten would serve in the position of an accommodator pursuant to Section 1031 of the IRS Code.

9. In or about January 1997, Baumgarten was not a client of Respondent's nor had she ever been a client of Respondent's.

11. On or about January 22, 1997, Judge Murphy and Baumgarten met with Respondent at Respondent's office. Judge Murphy asked that Respondent disburse $600,000 of the funds to Baumgarten. Judge Murphy directed Respondent to prepare six checks, each payable to Baumgarten for $100,000. Respondent, as directed, issued the funds by the requested checks from his CTA made payable to Baumgarten.

12. On or about January 23, 1997, Respondent spoke with Judge Murphy, who advised Respondent to distribute the remaining $1,255,000.00 to Baumgarten. On or about January 30, 1997, Respondent issued a check from his CTA made payable to Baumgarten in the amount of $1,255,000.00.

13. Between in or about February though in or about March, 1997, Judge Murphy told

Respondent that if anyone asks, Respondent should say that Baumgarten was the victim of sexual harassment by a company called Copex International ("Copex"). Judge Murphy handed Respondent an envelope containing a 3 page document entitled, "Release of All Claims," signed by Baumgarten and an individual named Arnold Secord as President of Copex. Respondent had not prepared Release and had never met Arnold Secord. During this time period Judge Murphy indicated to Respondent that there was no real sexual harassment case between Baumgarten and Copex.

14. Between in or about February through in or about April 1997, Respondent was informed by Judge Murphy that the money was Taus's and related to a property settlement in Taus's impending divorce proceeding.

15. On or about April 6, 1998, Respondent wrote a letter to State Bar Investigator Alice Verstegen in which the Respondent discussed the purported sexual harassment case. Respondent wrote the following false statements in his letter:

a. "[T]he [sexual harassment] matter is subject to a confidentiality agreement."

b. "I will assist the State Bar's investigation in any way possible to assist my former client, Maryanne Baumgarten."

c. "With regard to the date of settlement, it was on or about December 1996. The parties settling the matter were Copex International and [its president] Arnold Secord."

d. "The amount of the settlement was $1.855 million."

Conclusions of Law: Case No. 99-O-10687

16. By knowingly misrepresenting the settlement of a fictitious sexual harassment case, Baumgarten as his client, and the date and amount of a settlement of a case that never actually occurred when Respondent knew the money belonged to Taus, Respondent wilfully committed an act involving moral turpitude, dishonesty or corruption in violation of Business and Professions Code, section 6106.

Facts for Case No. 00-O-12825

17. In or about July, 1997, Bernadine Burrell Lindsay ("Lindsay") retained Respondent on a contingency fee basis to represent Lindsay and he minor daughter Anika Lindsay ("Anika") in connection with a motor vehicle accident occurring on or about March 8, 1997, in which Lindsay was the driver of the vehicle and Anika was the passenger. A lawsuit entitled *Bernadine Burrell et. al. v. Lawrence Miller, et. al.*, Los Angeles Superior Court case no. BC178021 ("the lawsuit") had been filed and was pending on behalf of Linsay and Anika at the time Respondent was retained to represent them.

18. In or about July, 1999, an arbitrator's award was returned in favor of Lindsay and Anika and was accepted by all parties.

20. On or about November 26, 2000, Respondent disbursed Lindsay's and Anika's share of the settlement funds to Lindsay.

22. Respondent accepted representation of Lindsay and Anika without obtaining their informed, written consent as to the potential conflict of interest. Respondent states that he orally informed his clients of the potential conflicting interests of the passenger, Anika, and the driver, Lindsay.

Conclusions of Law: Case No. 00-O-12825

23. By accepting and continuing representation of Lindsay and Anika without their informed, written consent regarding the potential conflict of interest, Respondent represented more then one client in a matter in which the interests of the clients potentially conflicted in wilful violation of rule 3-310(c)(1) of the Rules of Professional Conduct.

DISMISSALS:

The State Bar requests that the State Bar Court dismiss the following counts in furtherance of justice:

a. Case No. 99-O-10687; Counts 1 and 2.

b. Case No. 00-O-11009; Count 4.

c. Case No. 00-O-12825; Counts 5 and 6

PENDING CASES:

The written advice of pending cases, referenced in paragraph A.(6), was sent on October 8, 2004.

ADDITIONAL MITIGATION:

Respondent states that during approximately the last two years, Respondent has, on a pro bono basis, assisted the Los Angeles County Court in settling cases as a court-appointed mediator. He has been performing as a mediator on a regular basis. Respondent also states that he regularly performs pro bono work for various low-income clients.

Regarding the rule 3-310 violation, Respondent states that there was no issue of liability and the case revolved around damages. Respondent further states that under the insurance coverage, Anika, as Lindsay's daughter, would not have been permitted to recover from or bring suit against her mother because the insurance contract precluded actions and recoveries between family members living together.

Respondent enters into this stipulation as a condition of his/her participation in the Pilot Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Pilot Program Contract.

If the Respondent is not accepted into the Pilot Program or does not sign the Pilot Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

If the Respondent is accepted into the Pilot Program, upon Respondent's successful completion of or termination from the Program, this Stipulation will be filed and the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Statement Re: Discipline shall be imposed or recommended to the Supreme Court.

11-24-04		Paul Harold Ottosi
Date	Respondent's Signature	Print Name
11/27/4		Arthur L. Margolis
Date	Respondent's Counsel Signature	Print Name
12-1-04		David T. Sauber
Date	Deputy Trial Counsel's Signature	Print Name

ORDER

Finding this stipulation to be fair to the parties, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

☒ The stipulation as to facts and conclusions of law is APPROVED.

☐ The stipulation as to facts and conclusions of law is APPROVED AS MODIFIED as set forth below.

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; 2) this court modifies or further modifies the approved stipulation; or 3) Respondent is not accepted for participation in the Pilot Program or does not sign the Pilot Program Contract. (See rules 135(b) and 802(b), Rules of Procedure.)

The effective date of the disposition is the effective date of the Supreme Court order herein, normally 30 days after the file date of the Supreme Court Order. (See rule 953(a), California Rules of Court.)

3/11/05
Date

Judge of the State Bar Court

RICHARD A. HONN

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on March 15, 2005, I deposited a true copy of the following document(s):

1) **DECISION RE ALTERNATIVE RECOMMENDATIONS FOR DEGREE OF DISCIPLINE;**
2) **STIPULATION RE FACTS AND CONCLUSIONS OF LAW;**
3) **CONTRACT AND WAIVER FOR PARTICIPATION IN THE STATE BAR COURT' PROGRAM FOR RESPONDENTS WITH SUBSTANCE ABUSE OR MENTAL HEALTH ISSUES,** lodged March 11, 2005

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:

ARTHUR LEWIS MARGOLIS
ATTORNEY AT LAW
2000 RIVERSIDE DR
LOS ANGELES, CA 90039 3758

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

David Sauber, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **March 15, 2005**.

Milagro del R. Salmeron
Case Administrator
State Bar Court