


Counsel for the State Bar THE STATE BAR OF CALIFORNIA ENFORCEMENT OFFICE OF THE CHIEF TRIAL COUNSEL SHARI SVENINGSON, BAR No. 195298. 1149 So. Hill Street Los Angeles, CA 90015-2299 Telephone: (213) 765-1000	Case number(s) 01-0-03261  <b>PUBLIC MATTER</b>  kwiktag® 035 115 345 	(for Court's Use) <b>ORIGINAL</b>  <b>FILED</b> OCT 28 2003 STATE BAR COURT CLERK'S OFFICE LOS ANGELES
Counsel for Respondent ARTHUR L. MARGOLIS, ESQ. MARGOLIS & MARGOLIS, LLP 2000 Riverside Drive Los Angeles, CA 90039-3758 Telephone: (323) 953-8996	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  DEEPAK S. PARWATIKAR Bar # 187683 A Member of the State Bar of California (Respondent)		

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted March 11, 1997 (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 (definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b).) Facts supporting aggravating circumstances are re.

(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)  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 paid the judgments of both the 1999 and 2000 actions prior to the State Bar's involvement in this matter.

1. Stayed Suspension.

A. Respondent shall be suspended from the practice of law for a period of three (3) years

- 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 one (1) year

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

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 quarterly 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 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.
- (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:
  - Substance Abuse Conditions
  - Medical Conditions
  - Law Office Management Conditions
  - 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 of the Office of the Chief Trial Counsel 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) & (b), 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:           DEEPAK PARWATIKAR

CASE NUMBER(S):                 01-O-02362

**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:

1. In or about January 1996, Harry S. Young (“Young”), owner of Nurse Providers Staffing Services, Incorporated (“Nurse Providers”), employed Respondent to act as its Chief Financial Officer. On or about March 11, 1997, when Respondent became admitted to the practice of law, Nurse Providers also employed Respondent as its General Counsel.

2. On or about April 15, 1999, while still employed by Nurse Providers, Respondent began operating a business, First Call Staffing Services (“First Call”). First Call competed with Nurse Providers in that it provided the same type of service.

3. In or about May 1999, Respondent, while employed by Nurse Providers, obtained trade secrets (customer hospital lists and nurse employee lists) owned by Nurse Providers and used the trade secrets to contact employees for potential business at First Call.

4. On or about May 27, 1999, Young filed a civil action against Respondent in the Los Angeles Superior Court, case no. BC 211054, alleging unfair competition, misappropriation of trade secrets, breach of confidential relationship, intentional interference with a prospective economic advantage and civil conspiracy (the “1999 action”).

5. The terms under which Respondent began operating First Call were not fair and reasonable to Young’s corporation, Nurse Providers. At no time did Respondent disclose to Young the terms under which he began operating First Call, at no time did Respondent advise Young that he may seek the advice of an independent lawyer and at no time did Young consent to the terms under which Respondent began operating First Call.

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6. On or about May 19, 2000, Young filed another civil action in the Los Angeles Superior Court, case no. BC 230276, against Respondent alleging breach of fiduciary duty, legal malpractice and embezzlement (the "2000 action").

7. On or about April 10, 2001, judgment in the 1999 action was entered against Respondent in the amount of \$15,976.02 in general damages and \$4,300 in punitive damages. In the 1999 action a jury found Respondent was liable for intentional interference with a prospective economic advantage and that Respondent acted with fraud malice or oppression in breaching his fiduciary relationship with Nurse Providers.

8. On or about February 11, 2002, judgment in the 2000 action was entered against Respondent for conversion in the amount of \$9,444.75.

9. At no time did Respondent report to the State Bar the entry of judgment of the 1999 action.

## LEGAL CONCLUSIONS

By obtaining customer hospital lists and nurse employee lists which were trade secrets owned by Nurse Providers and by using the trade secrets with the intention of generating sales at First Call, Respondent committed acts of moral turpitude, dishonesty or corruption, in wilful violation of Business and Professions Code, section 6106.

By establishing a business that competed with Nurse Providers while he was employed as Chief Financial Officer and General Counsel to Nurse Providers, Respondent failed to avoid an interest adverse to his client, in wilful violation of Rules of Professional Conduct, rule 3-300.

By obtaining trade secrets owned by Nurse Providers and using the trade secrets to generate sales at First Call, Respondent failed to preserve the secrets of his client, in wilful violation of Business and Professions Code, section 6068(e).

By failing to report the judgment entered in the 1999 action, Respondent failed to report

to the State Bar judgments entered against him in civil actions for fraud and breach of fiduciary duty, in wilful violation of Business and Professions Code, section 6068(o)(2).

**PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A.(6), was September 8, 2003.

**COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of **September 8, 2003**, the estimated prosecution costs in this matter are approximately **\$1,983**. Respondent acknowledges that this figure is an estimate only and that it does not include State Bar Court costs which will be included in any final cost assessment. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

**AUTHORITIES SUPPORTING DISCIPLINE.**

Standard 2.3 of the Standards for Attorney Sanctions for Professional Misconduct provides:

“Culpability of a member of an act of moral turpitude, fraud, or intentional dishonesty toward a court, client or another person or of concealment of a material fact to a court, client or another person **shall result in actual suspension or disbarment** depending upon the extent to which the victim of the misconduct is harmed or misled and depending upon the act of misconduct and the degree to which it relates to the member’s acts within the practice of law.” (Emphasis added.)

Standard 2.6 provides that a finding of culpability for a violation of Business and Professions Code, section 6068 shall result in disbarment or suspension depending on the gravity of the



offense or the harm, if any, to the victim, with due regard to the purposes for imposing discipline set forth in Standard 1.3.

In Matter of Peavey (Rev. Dept., 2002) 4 Cal. State Bar Ct. Rptr. 483:

The Review Department recommended that Peavey be placed on 3 years probation, 3 years stayed suspension and 2 years actual suspension.

Peavey was found culpable of failing to report a civil judgment, failing to avoid adverse interests to a client, violating his fiduciary duties and committing acts of moral turpitude. The attorney borrowed money from three former clients to produce a book he had written without complying with the Rules of Professional Conduct. One of the clients sued Peavey and obtained a default judgement against him based upon failure to pay a note, failure to account, fraud and breach of fiduciary duty in the amount of \$124,188.33, which included punitive damages. Peavey filed a motion to set aside the default judgment and did not pay the judgment. The second client obtained a judgment against Peavey in the amount of \$43,794.89, which Peavey failed to pay. Respondent also borrowed money from a third client, which was found to be aggravation because it was not charged as misconduct in the NDC. In aggravation, the court noted Respondent was indifferent toward rectification or atonement because he had not paid the judgments at the time of trial in the State Bar Court and he lied to his former clients about the money coming in. In mitigation, Peavey had been practicing law discipline-free for 21 years.

Worth v. State Bar (1976) 17 Cal.3d 337:

The California Supreme Court imposed three years probation, three years stayed suspension and one year actual suspension.

Worth breached his fiduciary duty by receiving money from his law partner's elderly mother on the representation that she would be a limited partner in a real estate development scheme, failed

to take any steps to form a partnership, deposited her money into his personal bank accounts, and maintained no records or accounts of any kind concerning his disbursements of money. The elderly mother obtained a judgment against the attorney following a jury trial in an action for fraudulent misrepresentation in the amount of \$25,000 compensatory damages, \$3,800 in interest and \$7,500 in punitive damages, and she was forced to resort to a sheriff's sale of the attorney's interest in residential real property in order to enforce the judgment.

In Matter of Gillis (Rev. Dept., 2002) 4 Cal. State Bar Ct. Rptr.387:

The Review Department recommended that Gillis be placed on 3 years probation, 3 years stayed suspension and six months actual suspension.

Gillis violated rule 3-300 of the Rules of Professional Conduct and Business and Professions Code, sections 6106 and 6068(e) with respect to a single client. He sold his residential property to his client in exchange for a substantial portion of the proceeds of a settlement that Gillis had obtained as a result of a wrongful death case he handled on behalf of the client. Gillis also disclosed a portion of a confidential settlement with his client to a third party during the real estate transaction. Gillis had been in practice for 26 years with no prior discipline. The Court also emphasized that, although Gillis committed moral turpitude, "it has not been shown by clear and convincing evidence to have been either intentionally dishonest or venal," and that there could have been potential benefits to the client from the real estate transaction. The Review Department also found in aggravation that Gillis made false statements during a State Bar investigation.

**STATE BAR ETHICS SCHOOL**

Because respondent has agreed to attend State Bar Ethics School as part of this stipulation, Respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School.

9/26/03  
Date

*[Signature]*  
Respondent's signature

DEEPAK PARWATKAR  
print name

9/27/03  
Date

*Arthur L. Margolis*  
Respondent's Counsel's signature

ARTHUR L. MARGOLIS  
print name

10/1/03  
Date

*Shari Sveningson*  
Deputy Trial Counsel's signature

SHARI SVENINGSON  
print name

ORDER

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

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

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.)

10/23/03  
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 October 28, 2003, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION  
AND ORDER APPROVING, filed October 28, 2003**

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

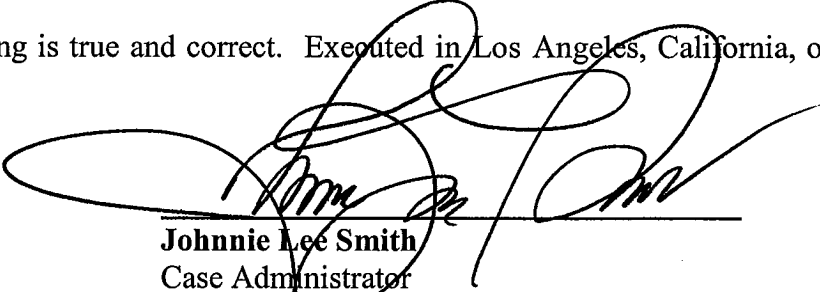
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**ARTHUR L MARGOLIS ESQ  
MARGOLIS & MARGOLIS LLP  
2000 RIVERSIDE DR  
LOS ANGELES, CA 90039**

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

**SHARI SVENINGSON, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **October 28, 2003.**

  
\_\_\_\_\_  
**Johnnie Lee Smith**  
Case Administrator  
State Bar Court