



ORIGINAL

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State Bar Court of California		
Hearing Department <input checked="" type="checkbox"/> Los Angeles <input type="checkbox"/> San Francisco		
Counsel for the State Bar The State Bar of CA Office of the Chief Trial Counsel-Enforcement Monique T. Miller, DTC 1149 South Hill Street Los Angeles, CA 90015 Bar # 212469	Case number(s) 04-0-10193	(for Court's use) <div style="text-align: center;"> FILED JUN 22 2005 <small>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</small> </div>
<input checked="" type="checkbox"/> Counsel for Respondent <input type="checkbox"/> In Pro Per, Respondent Arthur L. Margolis 2000 Riverside Drive Los Angeles, CA 90039 Tel.: (323) 953-8996 Bar # 57703	<div style="font-size: 2em; font-weight: bold; opacity: 0.5;">PUBLIC MATTER</div>	
In the Matter of HENRY RUSSELL HALPERN Bar # 47949 A Member of the State Bar of California (Respondent)	Submitted to <input checked="" type="checkbox"/> assigned judge <input type="checkbox"/> settlement judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING REPROVAL <input type="checkbox"/> PRIVATE <input checked="" type="checkbox"/> PUBLIC <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted January 7, 1971
(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) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) 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.

(Do not write above this line.)

(8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):

- (a) costs added to membership fee for calendar year following effective date of discipline (public reproof)
- (b) case ineligible for costs (private reproof)
- (c) costs to be paid in equal amounts for the following membership years:

_____ (hardship, special circumstances or other good cause per rule 284, Rules of Procedure)

- (d) costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
- (e) costs entirely waived

(9) The parties understand that:

- (a) A private reproof imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
- (b) A private reproof imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
- (c) A public reproof imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

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 85-0-223LA

(b) Date prior discipline effective 05/01/88

(c) Rules of Professional Conduct/ State Bar Act violations: Rule 6-101;

Business & Professions Code sections 6067, 6068, and 6103

(d) Degree of prior discipline Public Reproof

(Do not write above this line.)

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

- * State Bar Court CASE No. 86-O-12699;
- * Supreme Court Order S010970 effective 01/10/90;
- * Violations of Rules 2-111(A) & 6-101(A) (2) and B&P Code sections 6068(a) & 6103;
- * Degree of discipline: 1 year stayed suspension, 1 year probation with 30 days actual suspension.

- (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 with 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.

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- (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.
SEE ATTACHMENT, PAGE 8
- (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:

(Do not write above this line.)

D. Discipline:

- (1) Private reproof (check applicable conditions, if any, below)
 - (a) Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).
 - (b) Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).

or

- (2) Public reproof (check applicable conditions, if any, below)

E. Conditions Attached to Reproof:

- (1) Respondent must comply with the conditions attached to the reproof for a period of One (1) year
- (2) During the condition period attached to the reproof, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) Within ten (10) days of any change, Respondent must report to the Membership Records Office and to the Office of Probation of the State Bar of California ("Office of Probation"), 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) Within 30 days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the condition period attached to the reproof. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of the reproof during the preceding calendar quarter. Respondent must also state in each report whether there are any proceedings pending against him or her in the State Bar Court and, if so, the case number and current status of that proceeding. If the first report would cover less than thirty (30) days, that report must be submitted on the next following 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 condition period and no later than the last day of the condition period.

- (6) Respondent must be assigned a probation monitor. Respondent must 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 must furnish such reports as may be requested, in addition to quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the monitor.

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- (7) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation 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 conditions attached to the reprobation.
- (8) Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance of the Ethics School and passage of the test given at the end of that session.
- No Ethics School ordered. Reason: _____
- (9) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report required to be filed with the Office of Probation.
- (10) Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year of the effective date of the reprobation.
- No MPRE ordered. Reason: _____
- (11) 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 |

F. Other Conditions Negotiated by the Parties:

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: HENRY RUSSELL HALPERN

CASE NUMBER: 04-O-10193

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 AND CONCLUSIONS OF LAW.

FACTS

1. In or about March 1999, George F. Butz ("Butz"), a state prison inmate, retained Respondent to represent him in a Habeas Corpus matter. On or about April 16, 1999, Butz's father paid Respondent \$5,000 in advanced attorney's fees.
2. Thereafter, Respondent failed to take any legal action on behalf of Butz.
3. On or about October 5, 2000, and May 22, 2001, Butz wrote to Respondent, requesting that Respondent refund the \$5,000 advanced to Respondent. Respondent failed to respond to Butz's letters.
4. On or about April 13, 2005, Respondent refunded to Butz the \$5,000 unearned fees that were advanced to him.

LEGAL CONCLUSIONS

5. By failing to take any legal action on behalf of Butz, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of Rules of Professional Conduct, rule 3-110(A).
6. By failing to respond to Butz's letters requesting a refund, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned in wilful violation of Rules of Professional Conduct, rule 3-700(D)(2).

PENDING PROCEEDINGS.

As of May 12, 2005, the disclosure date referred to, on page one, paragraph A.(7), there are no investigation matters pending against Respondent.

AUTHORITIES SUPPORTING DISCIPLINE.

Standards of Attorney Sanctions for Professional Misconduct, Title IV, of the Rules of Procedure of the State Bar of California (hereinafter "Standard(s)").

Standard 1.2(b)(i) - Respondent has a record of two prior instances of discipline.

Standard 2.4(b) - Culpability of a member of wilfully failing to perform services in an individual matter or matters not demonstrating a pattern of misconduct or culpability of a member of wilfully failing to communicate with a client shall result in reproof or suspension.

Case Law

In *In the Matter of Respondent G* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 175, the attorney was privately reproofed for failing to perform services competently in a probate case. No aggravating circumstances were found, but several mitigating circumstances existed.

In *In the Matter of Hanson* (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 703, the attorney failed to return an unearned legal fee promptly in a single matter and, upon discharge by the clients, failed to take steps to avoid foreseeable prejudice to the clients. Based on the misconduct and on the attorney's record of prior misconduct, the hearing judge recommended a one-year stayed suspension and two years probation. However, the review department gave less weight to the attorney's prior discipline than the hearing judge did because it found the prior discipline remote and concluded that the discipline should be a public reproof.

FACTS SUPPORTING MITIGATING CIRCUMSTANCES #8:

At the time Butz retained Respondent, Respondent's second wife, Marcia Halpern, and his mother, Faye Halpern, were both critically ill. On June 14, 1999, Marcia Halpern died. Respondent's mother, who was very close to Respondent, died two weeks later.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of May 12, 2005, the estimated prosecution costs in this matter are approximately \$2,291.91. 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.

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In the Matter of HENRY RUSSELL HALPERN Bar # 47949	Case number(s): 04-O-10193
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SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law and Disposition.

<u>6/9/05</u> Date	<u><i>Henry Russell Halpern</i></u> Respondent's signature	<u>HENRY RUSSELL HALPERN</u> Print name
<u>6/15/05</u> Date	<u><i>Arthur Margolis</i></u> Respondent's Counsel's signature	<u>ARTHUR L. MARGOLIS</u> Print name
<u>6/16/05</u> Date	<u><i>Monique T. Miller</i></u> Deputy Trial Counsel's signature	<u>MONIQUE T. MILLER</u> Print name

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In the Matter of HENRY RUSSELL HALPERN Bar # 47949	Case number(s): 04-0-10193
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ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproof, 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 REPROVAL IMPOSED.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- All court dates in the Hearing Department are vacated.

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 125(b), Rules of Procedure.) Otherwise the stipulation shall be effective 15 days after service of this order.

Failure to comply with any conditions attached to this reproof may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.

Date

6/22/05

Judge of the State Bar Court


ROBERT M. TALCOTT

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 June 22, 2005, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION
AND ORDER APPROVING PUBLIC REPROVAL, filed June 22, 2005**

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 Lewis Margolis
2000 Riverside Dr
Los Angeles, CA 90039 3758**

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

MONIQUE T. MILLER, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **June 22, 2005**.



Tammy R. Cleaver
Case Administrator
State Bar Court