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<b>State Bar Court of California</b> Hearing Department <input type="checkbox"/> Los Angeles <input type="checkbox"/> San Francisco <b>PROGRAM FOR RESPONDENTS WITH SUBSTANCE ABUSE AND MENTAL HEALTH ISSUES</b>		
Counsel for the State Bar THE STATE BAR OF CALIFORNIA OFFICE OF THE CHIEF TRIAL COUNSEL - ENFORCEMENT DAVID T. SAUBER 1149 South Hill Street Los Angeles, CA 90015 (213) 765-1000 Bar #        176554	Case Number(s) 00-0-14412 03-0-02970 Investigative case	(for Court use)  <div style="text-align: center;"> <span style="font-size: 2em; font-weight: bold;"><del>LODGED</del></span>                           JUL 15 2005 ✓                          STATE BAR COURT                          CLERK'S OFFICE                          LOS ANGELES                     </div> <div style="text-align: center;"> <span style="font-size: 2em; font-weight: bold;">FILED</span>                           JAN 08 2010 ✓                          STATE BAR COURT                          CLERK'S OFFICE                          LOS ANGELES                     </div>
<input checked="" type="checkbox"/> Counsel for Respondent <input type="checkbox"/> In Pro Per JoAnne Earls Robbins Karpman & Associates 9200 Sunset Blvd. PH #7 Los Angeles, CA 90069  Bar # 82352	<div style="font-weight: bold; font-size: 1.2em;"> <del>CONFIDENTIAL</del>                           PUBLIC MATTER                     </div> <div style="text-align: center; margin-top: 10px;">                         kwiktag®                      078 541 309   </div>	
In the Matter of Gail J. Higgins  Bar # A Member of the State Bar of California (Respondent)	Submitted to Program Judge  <div style="text-align: center; font-weight: bold;">                         STIPULATION RE FACTS AND CONCLUSIONS OF LAW                     </div> <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 June 15, 1993  
(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, except for Probation Revocation Proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation and order consists of 8 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."

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- (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.

**B. Aggravating Circumstances [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 \_\_\_\_\_
- (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" (above)
- (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:**

**ATTACHMENT TO**  
**STIPULATION re FACTS and CONCLUSIONS OF LAW**

IN THE MATTER OF:       **GAIL J. HIGGINS**, Member No. 164989

CASE NUMBER(S):       00-O-14412; Investigative Case No. 03-O-02970

**DISCLOSURE OF PENDING INVESTIGATIONS/PROCEEDINGS NOT RESOLVED BY THIS STIPULATION.**

The disclosure date referred to, on page one, paragraph A.(6), was December 10, 2004.

**DISMISSALS:**       None

**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. 00-O-14412:**

1.       On or about March 25, 2002, Respondent executed and entered into a Stipulation as to Facts and Agreement in Lieu of Discipline Pursuant to Business and Professions Code Sections 6068(l) and 6092.5(i) (hereinafter the "Agreement in Lieu of Discipline") with the State Bar of California. A true and correct copy of the Agreement in Lieu of Discipline is attached hereto as "Exhibit 1" and incorporated herein by reference.

2.       In the Agreement in Lieu of Discipline, Respondent stipulated to violations of California Business and Professions Code sections 6068(m) with regard to Respondent's failure to respond promptly to reasonable status inquiries of a client in a matter in which Respondent had agreed to provide legal services.

3.       In the Agreement in Lieu of Discipline, Respondent agreed to be subject to the Agreement in Lieu of Discipline for a period of one (1) year to perform certain conditions including, among others, the following:

- a.       to comply with the provisions of the State Bar Act and Rules of Professional Conduct of the State Bar of California during the effective period of the Agreement in Lieu of Discipline; and
- b.       to submit to the Probation Unit written quarterly reports each January 10, April 10, July 10 and October 10 of each year or part thereof during which the Agreement in Lieu of Discipline is in effect, certifying under penalty of perjury that he has complied with all provisions of the State Bar Act and the Rules of Professional Conduct during the preceding calendar quarter or part thereof covered by the report and to file a final report

covering the remaining portion of the effective period of the Agreement in Lieu of Discipline.

4. To date, Respondent has failed to file with the Probation Unit the quarterly reports that were due on July 10, 2002, October 10, 2002 and January 10, 2003.

5. In addition, to date, Respondent has failed to file with the Probation Unit the final report that was due on March 25, 2003.

6. On or about September 29, 2003, a 20-day letter was mailed to Respondent's attorney, Denise Wright ("Wright"). On or about October 2, 2003, Wright telephonically contacted the Office of the Chief Trial Counsel regarding the 20-day letter and agreed to submit all the quarterly reports by October 31, 2003. On or about October 3, 2003 a letter confirming this verbal agreement was mailed to Wright. On or about November 5, 2003, Wright telephonically contacted the Office of the Chief Trial Counsel and advised that filing an NDC would be unnecessary and agreed to submit all the quarterly reports by November 17, 2003. Respondent did not file her quarterly reports with the State Bar until December 2003, well after the deadlines for those reports.

7. In entering into the Agreement in Lieu of Discipline, Respondent agreed that the stipulated facts contained therein would be binding upon her and may be admitted as evidence without further foundation should Respondent violate the conditions of the Agreement in Lieu of Discipline. The facts to which Respondent stipulated are set forth at pages six through seven of the Agreement in Lieu of Discipline and are also set forth below.

8. On or about October 1999, Stephen Parry ("Parry") employed Respondent to represent him in a pending child custody matter. Parry paid Respondent \$2,500 in advanced attorney's fees and signed a fee agreement.

9. On or about December 23, 1999, Respondent substituted into Parry's custody matter as the attorney of record.

10. On or about February 8, 2000, Respondent and Parry appeared in court regarding Parry's custody matter. Parry's custody matter was continued to April 10, 2000.

11. Subsequent to the February 8, 2000 hearing and to on or about April 14, 2000, Parry telephoned Respondent on several occasions and left messages for Respondent to return his telephone calls. At no time did Respondent return Parry's telephone calls.

12. On or about April 14, 2000, Parry spoke to Respondent by telephone. During this telephone conversation, Respondent advised Parry that an order to show cause hearing regarding Parry's permanent custody orders for his son was held on April 10, 2000. At no time did Respondent advise Parry that the order to show cause hearing on his custody matter would be heard on April 10, 2000.

13. In or about the end of April 2000, Parry telephoned Respondent's office and left messages on Respondent's answering machine for Respondent to return his telephone calls regarding the status of his pending case. Respondent did not return any of Parry's telephone calls.

14. In or about the months of May 2000 and June 2000, Parry telephoned and sent Respondent letters regarding the status of his pending case. Respondent did not return any of Parry's telephone calls and Respondent did not respond to any of Parry's letters.

**Conclusions of Law for Case No. 00-O-14412:**

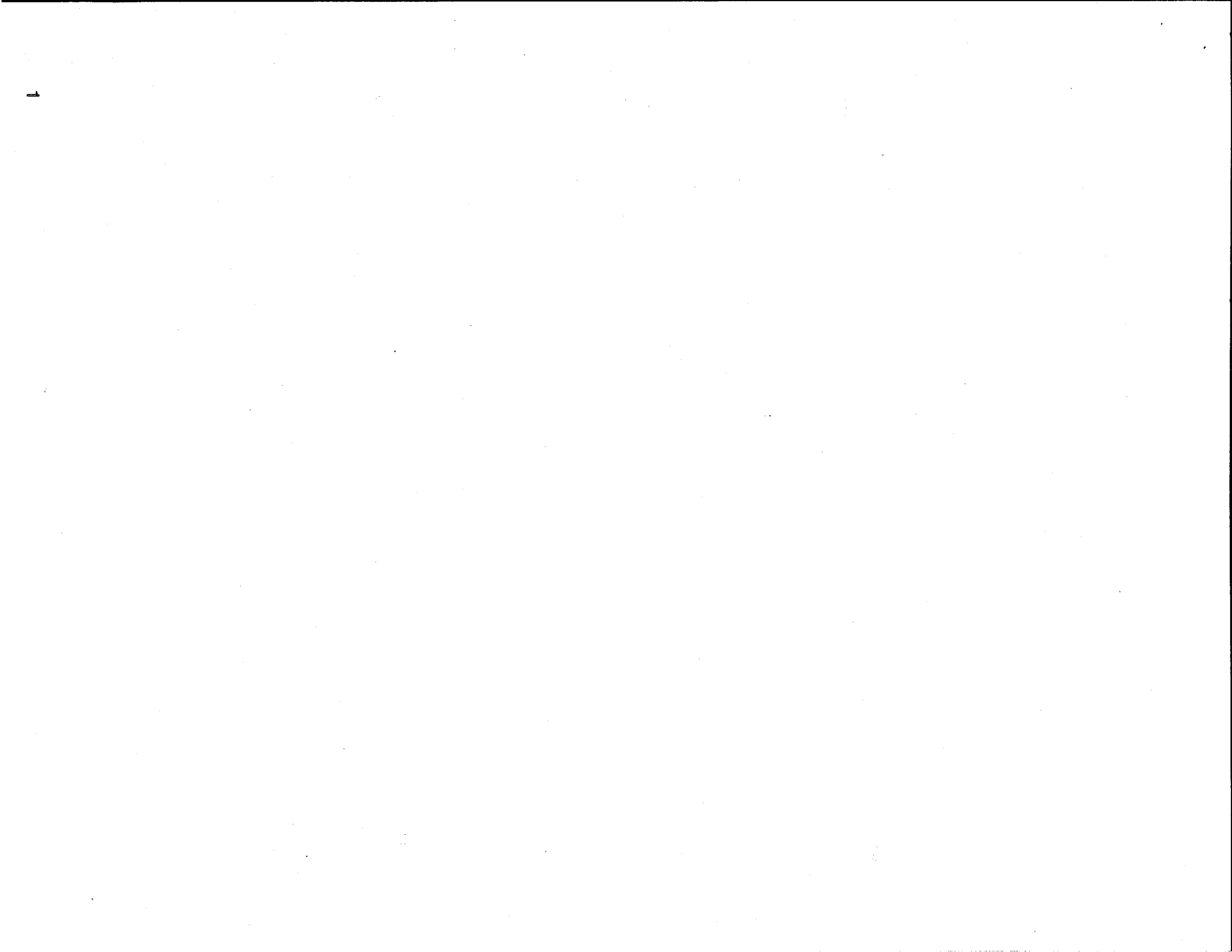
15. By failing to keep all agreements made in lieu of disciplinary prosecution with the agency charged with attorney discipline, Respondent willfully violated California Business and Professions Code section 6068(l).
16. By failing to respond to Parry's telephone messages and letters, Respondent intentionally, recklessly, or repeatedly failed to respond promptly to reasonable status inquiries of a client in a matter in which Respondent had agreed to provide legal services in violation of Business and Professions Code, section 6068(m).

**Facts for Investigative Case No. 03-O-02970:**

1. On or about June 19, 2000, Maribel and Freddie Dalyap ("the Dalyaps") employed Respondent to represent them in a bankruptcy proceeding. The Dalyaps paid Respondent \$500 initially for this representation.
2. On or about July 8, 2000, the Dalyaps met with Respondent to prepare Chapter 13 bankruptcy documents and paid Respondent \$335.
3. On or about August 10, 2000, Respondent filed a Chapter 13 petition on behalf of the Dalyaps, case no. 00-33043.
4. On November 16, 2000, case no. 00-33043 was dismissed for failure to prosecute.
5. On January 5, 2001, Respondent filed the Chapter 13 petition on behalf of the Dalyaps, case no. 01-10335.
6. On August 10, 2001, Fleet Mortgage filed a Motion for Relief From Automatic Stay ("the motion") in case no. 01-10335.
7. On August 27, 2001, Ms. Dalyap telephoned Respondent regarding the motion and left Respondent documentation necessary to oppose the motion.
8. On September 17, 2001, Fleet Mortgage sent Respondent a Notice of Continuance indicating that the hearing on the motion for relief from automatic stay was being continued from September 11, 2001, to September 25, 2001, at 10:00 a.m.
9. On September 25, 2001, the U.S. Bankruptcy Court heard the motion in case no. 01-10335. Respondent did not appear at the hearing and no opposition papers were filed by Respondent. The motion was granted.

**Conclusions of Law for Investigative Case No. 03-O-02970:**

10. By failing to file any opposition papers or to appear at the hearing on the Motion for Relief From Automatic Stay, Respondent failed to perform with competence in wilful violation of Rules of Procedure, rule 3-110(A).



CONFIDENTIAL DOCUMENT - NOT TO BE FILED WITH THE COURT

THE STATE BAR OF CALIFORNIA  
OFFICE OF THE CHIEF TRIAL COUNSEL  
1149 South Hill Street  
Los Angeles, California 90015-2299  
Telephone: (213) 765-1000

<p>IN THE MATTER OF</p> <p>GAIL JUDITH HIGGINS, No. 164989,</p> <p>A MEMBER OF THE STATE BAR OF CALIFORNIA.</p>	<p>Case No(s). 00-O-14412 (01-O-02479)</p> <p>STIPULATION AS TO FACTS AND AGREEMENT IN LIEU OF DISCIPLINE PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTIONS 6068(l) AND 6092.5(i)</p>
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**SECTION ONE. THE PROCEEDINGS: PRE-NOTICE ALD**

**Case No. 00-O-14412:**

On or about June 10, 2000, a complaint was filed with the State Bar against Respondent alleging violations of Rules of Professional Conduct, Rule 3-110(A); Rules of Professional Conduct, Rule 3-700(A)(2); Rules of Professional Conduct, Rule 3-700(D)(2); Rules of Professional Conduct, Rule 4-100(B)(3); Business and Professions Code, Section 6068(m); and Business and Professions Code, Section 6106.

On November 2, 2000 and December 11, 2000, an investigator from the Office of the Chief Trial Counsel of the State Bar wrote Respondent a letter and advised Respondent of the aforementioned allegations.

A letter of intent to issue a Notice of Disciplinary Charges regarding the aforementioned allegations was sent to Respondent's counsel on July 1, 2001. Thereafter, on August 14, 2001, Respondent's counsel, Arthur Margolis, Respondent, the State Bar Investigator and Deputy Trial Counsel met to discuss the allegations in a twenty day meeting.



It is the intention of the State Bar and the Respondent to dispose of the aforementioned matter(s) without the necessity of filing a Notice of Disciplinary Charges. Respondent, therefore, by executing this agreement, specifically waives the issuance of a Notice of Disciplinary Charges, the right to a formal hearing on the aforementioned matter(s) and any other procedures necessary to accomplish the objectives of this agreement.

**Case No. 01-O-02479:**

On or about June 15, 2001, a complaint was filed with the State Bar against Respondent alleging violations of Rules of Professional Conduct, Rule 3-110(A); Rules of Professional Conduct, Rule 3-700(A)(2); and Rules of Professional Conduct, Rule 3-700(D)(2).

On July 2, 2001 an investigator from the Office of the Chief Trial Counsel of the State Bar wrote Respondent a letter and advised Respondent of the aforementioned allegations.

A letter of intent to issue a Notice of Disciplinary Charges regarding the aforementioned allegations was sent to Respondent on January 8, 2002. Thereafter, on February 21, 2002, Respondent's counsel, Denise Wright and Deputy Trial Counsel discussed the allegations telephonically in a twenty day meeting.

It is the intention of the State Bar and the Respondent to dispose of the aforementioned matter(s) without the necessity of filing a Notice of Disciplinary Charges. Respondent, therefore, by executing this agreement, specifically waives the issuance of a Notice of Disciplinary Charges, the right to a formal hearing on the aforementioned matter(s) and any other procedures necessary to accomplish the objectives of this agreement.

**SECTION TWO. GENERAL AGREEMENTS AND WAIVERS**

**A. PARTIES**

1. The parties to this Stipulation as to Facts and Agreement in Lieu of Discipline (ALD), entered into under Business and Professions Code sections 6068(l) and 6092.5(i), are the member of the State Bar of California, captioned above (hereinafter "Respondent"), who was admitted to practice law in the State of California on June 15, 1993 and the State Bar of California, by and through the Office of the Chief Trial Counsel, represented by the Deputy Trial Counsel of record whose name appears below.

2. If Respondent is represented by counsel, Respondent and counsel have received and reviewed this agreement, have approved it as to form and substance, and have signed FORM ALD 400 below.

3. If Respondent is appearing in propria persona, Respondent has received and reviewed this agreement, has approved it as to form and substance, and has signed FORM ALD 400 below.

B. JURISDICTION, SERVICE AND NOTICE OF CHARGE(S) AND ANSWER

The parties agree that the State Bar Court has jurisdiction over Respondent to take the action agreed upon within this Stipulation as to Facts and Agreement in Lieu of Discipline. This agreement is entered into pursuant to provisions of Business and Professions Code sections 6068(l) and 6092.5(i). No issue is raised over notice or service of any charge(s). The parties waive any variance between the basis for the action agreed to in this agreement and any charge(s). As to any charge(s) not yet filed in any matter covered by this agreement, the parties waive the filing of formal charge(s), any answer thereto, and any other formal procedures.

C. PROCEDURES AND TRIAL

In order to accomplish the objectives of this agreement, the parties waive all State Bar Court procedures regarding formal discovery as well as hearing and trial.

The parties agree to submit this agreement to the Court for an in camera inspection if requested.

D. PENDING PROCEEDINGS

All pending investigations and matters included in this agreement are listed by case number in the caption above.

E. EFFECT OF THIS AGREEMENT

1. The parties agree that this Stipulation as to Facts and Agreement in Lieu of Discipline includes this form and all attachments.

2. Business and Professions Code section 6068(l) provides that it is the duty of any attorney "to keep all agreements made in lieu of disciplinary prosecution with the agency charged with attorney discipline." Any conduct by the Respondent within the effective period of this agreement which violates this agreement may give rise to prosecution for violation of Business and Professions Code section 6068(l) in addition to prosecution for the underlying allegations.

3. The facts stipulated to as to the underlying misconduct are binding upon the Respondent, and the Stipulation as to Facts and Agreement in Lieu of Discipline, while

confidential, may be admitted as evidence without further foundation at any disciplinary hearing held in conjunction with Respondent's failure to comply with the conditions of this agreement.

4. Should Respondent comply fully with the terms and conditions of this agreement as specified herein, the matter(s) referenced herein will thereafter be closed by the State Bar and the State Bar agrees that it will be precluded from reopening the referenced matters for any reason other than as stated in this agreement.

F. FURTHER ACKNOWLEDGMENTS/CONSENTS

By executing this agreement, Respondent consents that although this agreement is confidential, the agreement will be disclosed to the individual(s) whose complaints are resolved hereby.

The parties agree that upon the execution of this agreement by all parties, the State Bar will move the Court to dismiss, in the interest of justice and without prejudice to refile should Respondent fail to comply with the terms and conditions of this agreement, any formal charges filed with the Court which form the basis for this agreement.

G. COSTS OF DISCIPLINARY PROCEEDINGS

The agreed disposition is not eligible for costs to be awarded the State Bar.

**SECTION THREE. STATEMENT OF ACTS OR OMISSIONS AND CONCLUSIONS OF LAW WARRANTING THE AGREED DISPOSITION**

X The parties have attached FORM ALD 130 and agree that the same warrants the disposition set forth in this agreement.

**SECTION FOUR. STATEMENT OF FACTS, FACTORS OR CIRCUMSTANCES BEARING ON THE AGREED DISPOSITION.**

The parties agree that the following attachment sets forth facts and circumstances considered mitigating, aggravating or otherwise bearing on the agreed disposition:

X FORM ALD 140: STATEMENT OF FACTS AND CIRCUMSTANCES BEARING ON THE AGREED DISPOSITION

**SECTION FIVE. AGREED DISPOSITION**

Based on the foregoing and all attachments, the parties agree that this Agreement in Lieu of Discipline, together with the following conditions, constitutes the appropriate disposition of all matters covered herein.

X STANDARD CONDITIONS [FORM ALD 310]

X STATE BAR ETHICS SCHOOL/CLIENT TRUST ACCOUNT RECORD-KEEPING COURSE [FORM ALD 385]

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IN THE MATTER OF

Case No(s). 00-O-14412  
(01-O-02479)

GAIL JUDITH HIGGINS, No. 164989

A Member of the State Bar.

STATEMENT OF ACTS OR OMISSIONS AND CONCLUSIONS OF LAW  
CONSTITUTING A BASIS FOR THIS AGREEMENT

COUNT ONE

FACTS

1. In or about October 1999, Stephen Parry ("Parry") employed Respondent to represent Parry in a pending child custody matter. Parry paid Respondent \$2,500 in advanced attorney's fees and signed a fee agreement.
2. On or about December 8, 1999, Respondent appeared in court with Parry for an order to show cause regarding child support and the matter was taken off calendar. On or about December 13, 1999, Parry obtained Parry custody of his son without the assistance of the court.
3. On or about December 23, 1999, Respondent substituted into Parry's custody matter as the attorney of record in place of Parry. On this same date, Respondent filed an ex parte order to show cause regarding modification of child custody. The court granted Respondent's ex parte motion and issued Parry temporary custody orders for his son. A court date for the custody matter was scheduled for February 8, 2000.
4. On or about February 8, 2000, Respondent and Parry appeared in court regarding Parry's custody matter. Parry's custody matter was continued to April 10, 2000.
5. Subsequent to the February 8, 2000, hearing and to on or about April 14, 2000, Parry telephoned Respondent on several occasions and left messages for Respondent to return his telephone calls. At no time did Respondent return Parry's telephone calls.
6. On or about April 14, 2000, Parry spoke to Respondent by telephone. During this telephone conversation, Respondent advised Parry that a order to show cause hearing regarding Parry's permanent custody orders for his son was held on April 10, 2000. At no time did Respondent advise Parry that the order to show cause hearing on his custody matter would be heard on April 10, 2000.
7. In or about the end of April 2000, Parry telephoned Respondent's office and left messages on Respondent's answering machine for Respondent to return his telephone calls regarding the status of his pending case. Respondent did not return any of Parry's telephone calls.
8. On or about May 4, 2000, Parry sent a letter to Respondent regarding the status of his pending case. Respondent did not respond to Parry's May 4, 2000 letter.
9. After Parry received no response from his May 4, 2000 letter, Parry telephoned Respondent's office and left messages for Respondent to return his telephone calls. Respondent did not return Parry's telephone calls.
10. On or about May 25, 2000, Parry had not spoken to Respondent regarding the status of his case. On this same date, Parry sent Respondent a letter attaching a copy of

Parties  
Initials

*GH* *ABP*

Page

*7*

Parry's May 4, 2000, letter. Respondent did not respond to Parry's May 25, 2000, letter.

11. After Respondent did not respond to Parry's May 25, 2000, letter, Parry telephoned Respondent's office and left messages with Respondent's staff and on Respondent's answering machine. Respondent did not return Parry's telephone calls.

12. On or about June 2, 2000, Parry sent Respondent a copy of his May 4, 2000, letter as a reminder that Parry had not spoken to Respondent regarding the status of his case. Respondent did not respond to Parry's June 2, 2000, letter.

13. On or about June 11, 2000, Parry sent Respondent a letter regarding Respondent's failure to respond. In this letter, Parry advised Respondent that he would file a complaint with the State Bar. Respondent did not respond to Parry's June 11, 2000, letter.

**LEGAL CONCLUSIONS**

The Respondent acknowledges that by the conduct described above, she wilfully violated Business and Professions Code, Section 6068(m). The parties stipulate that the protection of the public and the interests of the Respondent would be best served by this Agreement in Lieu of Discipline pursuant to Business and Professions Code sections 6068(l) and 6092.5(i), including the provisions outlined in ALD 110.

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IN THE MATTER OF

Case No(s). 00-O-14412  
(01-O-02479)

GAIL JUDITH HIGGINS, No. 164989

**A Member of the State Bar.**

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**STATEMENT OF ACTS OR OMISSIONS AND CONCLUSIONS OF LAW  
CONSTITUTING A BASIS FOR THIS AGREEMENT**

Case No. 01-O-02479

After careful review of this case by Deputy Trial Counsel, discussions with Respondent's counsel and the documentation provided in response to this complaint, Deputy Trial Counsel agrees with Respondent that this matter should be resolved by the fee dispute process with a local county bar association before an attorney mediator/arbitrator.

Within thirty (30) days from the execution of this agreement by all parties, Respondent agrees to contact complaining witness Momoya Toda for the purpose of participating in the fee dispute process with a local bar association before an attorney mediator or arbitrator. Respondent agrees to timely pay any restitution to Ms. Toda in accordance with any mediation/arbitrator award. Respondent further agrees to show proof of her efforts to participate in fee dispute with Ms. Toda and any restitution paid in accordance with the mediation/arbitration award to the State Bar of California, Office of the Chief Trial Counsel, Probation Unit.

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**IN THE MATTER OF**

**Case No(s).** 00-O-14412  
(01-O-02479)

GAIL JUDITH HIGGINS, No. 164989

**A Member of the State Bar.**

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**STATEMENT OF FACTS AND CIRCUMSTANCES BEARING  
ON THE AGREED DISPOSITION**

**A. AGGRAVATING CIRCUMSTANCES:**

There are no aggravating circumstances.

**B. MITIGATING CIRCUMSTANCES:**

1. X Respondent has no record of prior discipline over many years of practice, coupled with present misconduct not deemed serious. [Std 1.2(e)(i)] Supporting facts:

Respondent was admitted to the California State Bar on June 15, 1993 and has no record of prior discipline.

2. X Respondent promptly took objective steps to spontaneously demonstrate remorse which steps were designed to timely atone for any consequences of Respondent's misconduct. [Std 1.2(e)(vii)] Supporting facts:

In an effort to resolve the Parry matter, Respondent contacted complaining witness Parry and volunteered to refund and did refund a portion of the advanced attorney's fees paid to Respondent.

3. X Respondent promptly took objective steps to spontaneously demonstrate recognition of the wrongdoing acknowledged, which steps were designed to timely atone for any consequences of Respondent's misconduct. [Std 1.2(e)(vii)]



Supporting facts:

Respondent was cooperative with the State Bar during the investigation and prosecution of this matter.

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IN THE MATTER OF

Case No(s). 00-O-14412  
(01-O-02479)

GAIL JUDITH HIGGINS, Bar No. 164989

A Member of the State Bar.

**DISCLOSURE OF PENDING INVESTIGATIONS**

Respondent has been advised in writing of any pending investigations or proceedings not resolved by this agreement, identified by investigation case number and complaining witness name, if any. All such information has been provided to the Respondent in a separate document as of February 22, 2002. This date is no more than thirty (30) days prior to the date the agreement is signed.

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**IN THE MATTER OF**

**Case No(s).** 00-O-14412  
(01-O-02479)

GAIL JUDITH HIGGINS, No. 164989

**A Member of the State Bar.**

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**TERM OF AGREEMENT**

This Stipulation as to Facts and Agreement in Lieu of Discipline shall remain in effect for one (1) year from the date it is executed by all parties.

*GJH*

OFFICE OF THE CHIEF TRIAL COUNSEL  
THE 1149 South Hill Street  
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Telephone: (213) 765-1000  
STATE BAR OF CALIFORNIA

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**IN THE MATTER OF**

**Case No(s).** 00-O-14412  
(01-O-02479)

GAIL JUDITH HIGGINS, No. 164989

**A Member of the State Bar.**

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**STANDARD CONDITIONS**

- X That during the effective period of this agreement, Respondent shall comply with the provisions of the State Bar Act and Rules of Professional Conduct of the State Bar of California.
  
  - X That during the effective period of this agreement, Respondent shall report not later than January 10, April 10, July 10 and October 10 of each year or part thereof during which the conditions of this agreement are in effect, in writing, to the Probation Unit, Office of the Chief Trial Counsel, Los Angeles, which report shall state that it covers the preceding calendar quarter or applicable portion thereof, certifying by affidavit or under penalty of perjury (provided, however, that if the effective date of this agreement is less than thirty (30) days preceding any of said dates, Respondent shall file said report on the due date next following the due date after said effective date):
    - (a) in Respondent's first report, that Respondent has complied with all provisions of the State Bar Act and Rules of Professional Conduct since the effective date of said agreement;
  
    - (b) in each subsequent report that Respondent has complied with all provisions of the State Bar Act and Rules of Professional Conduct during said period;
  
    - (c) provided, however, that a final report shall be filed covering the
-

remaining portion of the effective period of this agreement following the last report required by the foregoing provisions of this paragraph certifying to the matters set forth in subparagraph (b) thereof.

- X That Respondent shall promptly report, and in no event in more than ten (10) days, to the Membership Records office of the State Bar and to the Probation Unit, Office of the Chief Trial Counsel, all changes of information including current office or other address for State Bar purposes as prescribed by Business and Professions Code section 6002.1.

OFFICE OF THE CHIEF TRIAL COUNSEL  
THE STATE BAR OF CALIFORNIA  
1149 South Hill Street  
Los Angeles, California 90015-2299  
Telephone: (213) 765-1000

---

**IN THE MATTER OF**

**Case No(s).** 00-O-14412  
(01-O-02479)

GAIL JUDITH HIGGINS, No. 164989

**A Member of the State Bar.**

---

**RESTITUTION**

Case No. 01-O-02479:

- X      Within thirty (30) days from the execution of this agreement by all parties, Respondent agrees to contact complaining witness Momoya Toda for the purpose of participating in the fee dispute process with a local bar association before an attorney mediator or arbitrator. If restitution is ordered as a result of the mediation/arbitration, Respondent agrees to timely pay any restitution to Ms. Toda in accordance with any mediation/arbitrator award. Respondent further agrees to show proof of her efforts to participate in fee dispute with Ms. Toda and any restitution paid in accordance with the mediation/arbitration award to the State Bar of California, Office of the Chief Trial Counsel, Probation Unit.



APPROVAL OF PARTIES

The parties and all counsel of record hereby approve the foregoing Stipulation as to Facts and Agreement in Lieu of Discipline and all attachments, and the parties agree to be bound by all terms and conditions stated and the agreed disposition.

3/25/02

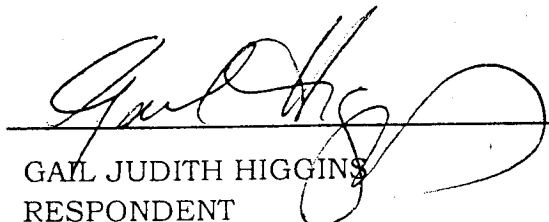
Date



PAMELA N. BUCKNER-DAVIS  
Deputy Trial Counsel

3/11/02

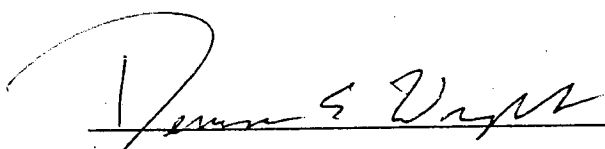
Date



GAIL JUDITH HIGGINS  
RESPONDENT

3/12/02

Date



DENISE E. WRIGHT  
RESPONDENT'S COUNSEL



(Do not write above this line.)

In the Matter of  GAIL J. HIGGINS	Case number(s):  00-0-14412 et al
---	---

### 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 and Conclusions of Law.

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

If the Respondent is not accepted into the Program or does not sign the 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 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.

4/15/05  
Date

  
Respondent's signature

Gail J. Higgins  
Print name

4/15/05  
Date

  
Respondent's Counsel's signature

JoAnne Earls Robbins  
Print name

4/15/05  
Date

  
Deputy Trial Counsel's signature

David T. Sauber  
Print name

(Do not write above this line.)

In the Matter of  Gail J. Higgins	Case number(s):  00-0-14412 et al.
---	--


## 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 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.
- 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; or 3) Respondent is not accepted for participation in the Program or does not sign the Program Contract. (See rule 135(b) and 802(b), Rules of Procedure.)

July 15, 2005  
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 July 19, 2005, I deposited a true copy of the following document(s):

**STATEMENT ON ALTERNATIVE DISPOSITION AND ORDERS;**

**STIPULATION RE FACTS AND CONCLUSIONS OF LAW; and,**

**CONTRACT AND WAIVER FOR PARTICIPATION IN THE STATE BAR'S ALTERNATIVE DISCIPLINE PROGRAM, all lodged July 15, 2005**

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

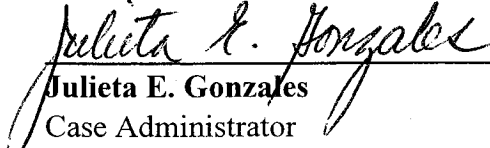
by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**JOANNE E ROBBINS ATTORNEY AT LAW  
KARPMAN & ASSOCIATES  
9200 SUNSET BLVD PH #7  
LOS ANGELES CA 90069**

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

**David T. Sauber, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **July 19, 2005**.

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

~~ORIGINAL~~  
~~CONFIDENTIAL~~

**PUBLIC MATTER**

**LODGED**

JUN 03 2008

STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES

**FILED**

JAN 08 2010

STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES

1 THE STATE BAR OF CALIFORNIA  
2 OFFICE OF THE CHIEF TRIAL COUNSEL  
3 **SCOTT J. DREXEL**, No. 65670  
4 CHIEF TRIAL COUNSEL  
5 **PATSY J. COBB**, No. 107793  
6 DEPUTY CHIEF TRIAL COUNSEL  
7 **JAYNE KIM**, No. 174614  
8 ASSISTANT CHIEF TRIAL COUNSEL  
9 **DAVID T. SAUBER**, No. 176554  
10 DEPUTY TRIAL COUNSEL  
11 1149 South Hill Street  
12 Los Angeles, California 90015-2299  
13 Telephone: (213) 765-1252

**RECEIVED**

THE STATE BAR COURT

9 **DEC 07 2007**      **ALTERNATIVE DISCIPLINE PROGRAM - LOS ANGELES**

10 STATE BAR COURT  
11 CLERK'S OFFICE  
12 LOS ANGELES

12 In the Matter of

13 **GAIL JUDITH HIGGINS**,  
14 No. 164989

15 A Member of the State Bar  
16

) Case No. 00-O-14412 et al.

) **PARTIES' ADDENDUM TO**  
) **STIPULATION RE: FACTS AND**  
) **CONCLUSIONS OF LAW, REGARDING**  
) **STATE BAR CASE NO. 05-O-03374**

17  
18           The State Bar of California, Office of Chief Trial Counsel, through Deputy Trial Counsel  
19 David T. Sauber, and Respondent, Gail J. Higgins, represented by counsel, JoAnne Earles Robbins  
20 submit this Addendum to the Stipulation re: Facts and Conclusions of Law previously lodged on  
21 July 15, 2005. This Addendum relates solely to State Bar file no. 00-O-14412 et al.

22 **I.       INCORPORATION OF PRIOR STIPULATION**

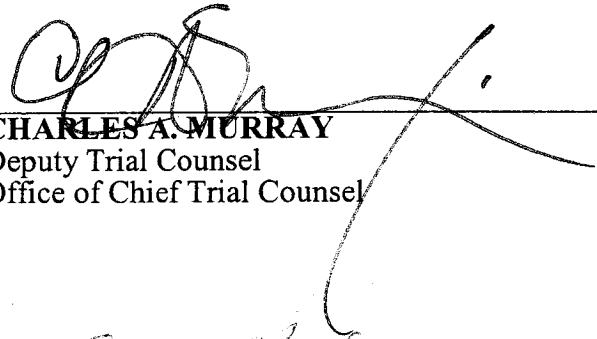
23           This addendum is intended to supplement the Stipulation re: Facts and Conclusions of Law  
24 in case no. 00-O-14412 et al., which the parties lodged with this Court on July 15, 2005 (the "Prior  
25 Stipulation"). The Prior Stipulation is also incorporated as if fully set forth herein. Attached hereto  
26 is the parties' stipulation as to facts and conclusions of law in State Bar file no. 05-O-03374,  
27 involving recent misconduct. At this time there are no other investigations pending against  
28 Respondent.

1 **II. THE STATE BAR'S DISCIPLINE RECOMMENDATION MAY CHANGE**

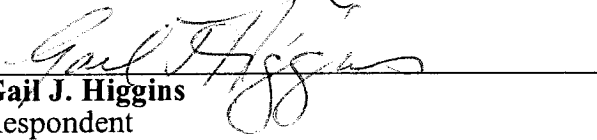
2 The parties understand that, based on the new matter which forms the basis of this  
3 Addendum, the discipline recommended by the State Bar may change. If necessary, the State Bar  
4 shall lodge a Supplemental Discipline Brief, supplementing the discipline brief it previously  
5 submitted in this matter.

7 **RESPECTFULLY SUBMITTED,**

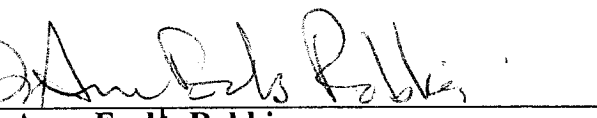
9 Date: Dec. 7, 2007

8  
10   
11 **CHARLES A. MURRAY**  
12 Deputy Trial Counsel  
13 Office of Chief Trial Counsel

14 Date: Nov 30, 2007

15   
16 **Gail J. Higgins**  
17 Respondent

18 Date: December 6 2007

19   
20 **JoAnne Earls Robbins**  
21 Counsel for Respondent

**ADDENDUM TO STIPULATED FACTS and CONCLUSIONS OF LAW**  
**STATE BAR ALTERNATIVE DISCIPLINE PROGRAM**

IN THE MATTER OF: **GAIL J. HIGGINS**

MEMBER # 164989

CASE NUMBER(s): **05-O-03374**

**STIPULATED FACTS AND CONCLUSIONS OF LAW**

**Prior Stipulation Incorporated Herein**

1. This addendum is intended to supplement the Stipulation re: Facts and Conclusions of Law in case nos. 00-O-14412 et al., which the parties lodged with the Alternative Discipline Program ("ADP") Court on July 15, 2005 (the "Prior Stipulation"). The Prior Stipulation is also incorporated as if fully set forth herein.

2. The case described herein was filed subsequent to the Prior Stipulation being entered with the Court. Respondent is currently a participant in the Alternative Discipline Program.

**Facts for Case no. 05-O-03374**

3. In late January, 2005, Tatum Toth employed Respondent to represent her in a bankruptcy matter. At that time, Respondent told Toth to mail the last statements for each of her credit cards and a check for \$1,009.00 to Respondent at her office in Glendale. Respondent represented to Toth that the \$1,009.00 included \$800.00 for attorney's fees and \$209.00 for filing fees. Respondent advised Toth that once Respondent had received all the information and her fees, Respondent would start the paperwork to prepare Toth's bankruptcy petition.

4. Thereafter, Toth sent her check in the amount of \$1,009.00 and copies of her credit card statements to Respondent at her Glendale office. Toth's check was dated February 1, 2005 and promptly negotiated by Respondent. The check cleared Toth's account on February 7, 2005.

5. About a month after she retained Respondent, on February 28, 2005, Toth called Respondent to confirm that Respondent had received her documentation, and to ask if Respondent needed any additional information. During their telephone conversation, Respondent advised Toth that she did not need any additional information and that she would mail the paperwork out to Toth for her to look over and sign. Respondent failed to mail the paperwork to Toth.

6. In an effort to ensure that her bankruptcy was timely filed, from the end of February 2005 through June 10, 2005, Toth called Respondent several times regarding status. Each time a recording answered the call, Toth left a message requesting a return call regarding the status of her matter. Respondent did not return those calls. Toth actually spoke with Respondent about seven or eight times during that time period. Each time she spoke with Respondent, Toth asked Respondent to provide a status report on her legal matter. In response Respondent explained to Toth that she had been ill, including hospitalization, and the matter had not been completed.

///

7. Though Respondent did not tell Toth, during this period of time she did not recall receiving the check or information. Respondent looked for the file and check but was unable to locate either, though she had cashed the check in early February. Respondent did not follow up with Toth about the missing items. Respondent kept thinking she would find the items and do the work.

8. On June 10, 2005, Toth called Respondent and left a detailed voice mail message requesting that Respondent call her back and provide a full refund of the \$1009.00, since Respondent had failed to prepare any documentation or file any pleadings in Toth's case. Respondent failed to respond to the message and failed to provide a refund to Toth at that time.

9. On about June 10, 2005, Toth hired attorney Stephen M. Parry to represent her in her bankruptcy matter. Parry quickly prepared her bankruptcy petition which was filed on June 15, 2005.

10. Respondent did not perform any legal services of value for Toth or file any documents in court to initiate Toth's bankruptcy.

11. By agreeing to prepare Toth's bankruptcy, accepting legal fees from Toth, and then taking no further action on behalf of Toth to file her bankruptcy petition after February 1, 2005, Respondent effectively withdrew from representation of Toth.

12. At no time did Respondent inform Toth that she was withdrawing from employment. At no time did Respondent take any steps to avoid reasonably foreseeable prejudice to Toth.

13. On July 21, 2005, the State Bar opened an investigation, case no. 05-O-03374, pursuant to a complaint filed by Tatum Toth (the "Toth matter").

14. On October 25, 2005, a State Bar Investigator wrote to Respondent regarding the Toth matter. The investigator's letter was placed in a sealed envelope correctly addressed to Respondent at her State Bar of California membership records address at the time. The letter was properly mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business. The United States Postal Service did not return the investigator's letter as undeliverable or for any other reason.

15. The investigator's letter requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Toth matter. Respondent received the investigator's letter.

16. On November 10, 2005, Respondent called the State Bar and left a voice message for the investigator stating that she had been teaching recently and could not locate the Toth file in storage. In her message to the investigator, Respondent requested an extension to provide her response to the allegations in the Toth matter.

17. On November 14, 2005, the investigator returned Respondent's voice mail message and left a message on Respondent's voice mail granting a two (2) week extension from the original November 8, 2005 compliance date to November 22, 2005 for Respondent to respond to the allegations in the Toth matter.

18. On the same day, Respondent called the State Bar and left a voice mail message for the investigator stating that she would send a fax right away, confirming the extension. Furthermore, Respondent stated that she would cooperate with the investigation and provide all the requested records.

19. However, Respondent did not respond or cooperate as stated in her November 14, 2005 voice mail message to the State Bar investigator and did not provide a written response to the allegations in the Toth matter.

20. Respondent failed to participate or cooperate in any way in the State Bar investigation of the Toth matter after requesting an extension on November 10, 2005 and agreeing on November 14, 2005 to provide written confirmation of an extension to November 22, 2005.  
the

21. In early 2006, Respondent returned Toth's \$1009 by check to her.

22. After receiving a copy of a Notice of Intent to File Notice of Disciplinary Charges in May 2006, Respondent, with counsel, participated in and cooperated with the State Bar in these proceedings.

**Conclusions of Law for Case No. 05-O-03374**

23. COUNT ONE- By failing to perform legal services for Toth as agreed, Respondent intentionally, recklessly or repeatedly failed to perform legal services with competence in violation of Rule of Professional Conduct 3-110(A).

24. COUNT TWO- By failing to refund the unearned fees of \$800.00 to Toth, Respondent failed to promptly refund unearned fees in wilful violation of the Rule of Professional Conduct 3-700(D)(2).

25. COUNT THREE- By failing to refund the advanced costs to Toth at her request, Respondent failed to pay promptly, as requested by a client, any funds in Respondent's possession which the client is entitled to receive in violation of Rule of Professional Conduct 4-100(B)(4).

26. COUNT FOUR- By failing to respond to Toth's messages, Respondent failed to respond promptly to Toth's reasonable status inquiries in violation of Business and Professions Code section 6068(m).

27. COUNT FIVE- By failing to provide a written response to the allegations in the Toth matter and failing to otherwise participate or cooperate in the State Bar investigation of the Toth matter, Respondent failed to cooperate in a disciplinary investigation, in violation of Business and Professions Code section 6068(i).

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**RULE 133 NOTICE OF PENDING PROCEEDINGS**

Respondent was notified in writing of any pending investigations not included in this stipulation, pursuant to Rule 133(12), on November 2, 2007.

**POTENTIAL INCREASE IN DISCIPLINE**

Respondent understands that the matters in this addendum, being additional misconduct, may result in the Office of Chief Trial Counsel seeking – and/or the State Bar Court recommending – additional ADP conditions or increased discipline in the underlying cases, up to and including disbarment. In addition, her length of participation in the court's Alternative Discipline Program may be extended.

//// END OF ATTACHMENT ///

**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 8, 2010, I deposited a true copy of the following document(s):

DECISION AND DISCIPLINE ORDER; ORDER FILING AND SEALING CERTAIN DOCUMENTS;  
STIPULATION RE FACTS AND CONCLUSIONS OF LAW and  
PARTIES' ADDENDUM TO STIPULATION RE: FACTS AND CONCLUSIONS OF  
LAW, REGARDING STATE BAR CASE NO. 05-O-03374

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

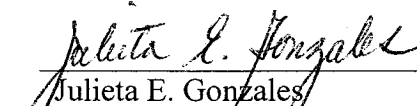
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

GAIL J HIGGINS ATTORNEY AT LAW  
HIGGINS LAW FIRM  
433 N CAMDEN DR 6TH FL  
BEVERLY HILLS, CA 90210

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

Charles A. Murray, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on March 8, 2010.

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