


Counsel for the State Bar THE STATE BAR OF CALIFORNIA OFFICE OF THE CHIEF TRIAL COUNSEL ENFORCEMENT SHARI SVENINGSON, BAR NO. 195298 1149 South Hill Street Los Angeles, CA 90015-2299 Telephone: (213) 765-1004	Case number(s) 02-0-10434 PUBLIC MATTER kwiktag® 031 974 719 	(for Court's use) FILED DEC 05 2003 <i>hcc</i> STATE BAR COURT CLERKS OFFICE LOS ANGELES
Counsel for Respondent JANIS L. TURNER 2515 Camino del Rio S #324 San Diego, CA 92108-3737 Telephone: (619) 718-4800 IN PROPRIA PERSONA	Submitted to <input checked="" type="checkbox"/> assigned judge <input type="checkbox"/> settlement judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of JANIS L. TURNER Bar # 79217 A Member of the State Bar of California (Respondent)		

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted January 19, 1978
 (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 10 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):
 - costs added to membership fee for calendar year following effective date of discipline
 - costs to be paid in equal amounts prior to February 1 for the following membership years:

 (hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
 - costs waived in part as set forth under "Partial Waiver of Costs"
 - costs entirely waived

Note: All information required by this form and any additional information which cannot be provided in the space provided, shall be set forth in the text component of this stipulation under specific headings, i.e. "Facts," "Dismissals," "Conclusions of Law."

B. Aggravating Circumstances (for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b).) Facts supporting aggravating circumstances are required.

- (1) Prior record of discipline [see standard 1.2(f)]
 - (a) State Bar Court case # of prior case _____
 - (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 (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 ~~compliant 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) 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.
- (10) 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.
- (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:

D. Discipline

1. Stayed Suspension.

- A. Respondent shall be suspended from the practice of law for a period of thirty (30) days
- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
 - ii. and until Respondent pays restitution to _____ [payee(s)] (or the Client Security Fund, if appropriate), in the amount of _____, plus 10% per annum accruing from _____ and provides proof thereof to the Probation Unit, Office of the Chief Trial Counsel
 - iii. and until Respondent does the following: _____
- B. The above-referenced suspension shall be stayed.

2. Probation.

Respondent shall be placed on probation for a period of one (1) year which shall commence upon the effective date of the Supreme Court order herein. (See rule 953, California Rules of Court.)

E. Additional Conditions of Probation:

- (1) During the probation period, Respondent shall comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2) 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.
- (3) Respondent shall submit written quarterly reports to the Probation Unit on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, respondent shall state whether respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. If the first report would cover less than 30 days, that report shall be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.
- (4) 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.
- (5) 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.

- (6) Within one (1) [redacted] 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.
- (7) 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.
- (8) The following conditions are attached hereto and incorporated:
- Substance Abuse Conditions Law Office Management Conditions
- Medical Conditions Financial Conditions
- (9) 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 within one year. Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 951(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.
- No MPRE recommended.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: JANIS L. TURNER

CASE NUMBER(S): 02-O-10434

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the foregoing facts are true and that she is culpable of violations of the specified statutes and/or Rules of Professional Conduct:

1. On or about September 19, 2000, Jerry Lee and Hyun Lee ("the Lees") employed Jacques Sapier ("Sapier") to represent them in breach of contract matter already filed in the Los Angeles Superior Court entitled, Yun v. Lee, case no. BC235771 ("Yun v. Lee"). The fee agreement that the parties entered into provided that Sapier may delegate to other attorneys some of the services to be provided to the Lees and that any such delegation would not affect the attorneys fees to be paid by the Lees under the agreement.

2. On or about September 21, 2000, Sapier introduced Janis Turner, Esq. ("Respondent Turner") to the Lees. On that date, the Lees understood that while Sapier would still be their attorney on the breach of contract matter, Respondent Turner would be performing some of the legal services on their behalf.

3. On or about October 25, 2000, Respondent Turner filed both an Answer to the complaint and a Cross-Complaint on behalf of the Lees in the Los Angeles Superior Court in Yun v. Lee under her name.

4. On or about January 29, 2001, Respondent Turner signed a Request for Dismissal, with prejudice, ("Dismissal") of the Lee's Cross-Complaint in the Los Angeles Superior Court in Yun v.

Lee.

5. On or about February 14, 2001, Respondent Turner filed, or caused to be filed, the Dismissal in the Los Angeles Superior Court.

6. At no time did Respondent Turner obtain the Lees' consent to file the Dismissal.

7. On or about February 20, 2001, the Lees hired a new attorney to represent them in Yun v. Lee. On that date, a Substitution of Attorney signed by Respondent Turner was filed in the Los Angeles Superior Court which named Respondent Turner as the former counsel and Dale J. Park ("Park") as the new counsel in Yun v. Lee.

8. On or about April 13, 2001, Park filed a Motion to Set Aside the Dismissal of Cross-Complaint ("Motion") in the Los Angeles Superior Court in Yun v. Lee. The Motion was made on the grounds that Respondent Turner had not obtained authorization to file the Dismissal from the Lees.

9. On or about April 19, 2001, Respondent Turner provided a declaration, which she had signed, to the opposing counsel in Yun v. Lee. In the declaration, Respondent Turner stated that the dismissal of the Cross-Complaint was specifically requested by the Lees.

10. On or about May 7, 2001, the opposing counsel in Yun v. Lee filed an Opposition to Motion for Order Setting Aside Cross-Complaint ("Opposition") in the Los Angeles Superior Court in Yun v. Lee. Attached to the Opposition was the declaration that Respondent Turner had provided to the opposing counsel.

LEGAL CONCLUSIONS

By failing to obtain the Lees' authorization to file the Dismissal and by subsequently filing the Dismissal, Respondent Turner intentionally, recklessly or repeatedly failed to perform legal services with competence in violation of Rules of Professional Conduct, rule 3-110(A).

Although the Lees never authorized Respondent Turner to file the Dismissal, by providing a declaration to the opposing counsel in Yun v. Lee that stated anything about whether or not the Lees authorized her to file the Dismissal, Respondent Turner failed to maintain inviolate the confidence of her clients and failed to preserve the secrets of her clients in violation of Business and Professions Code, section 6068(e).

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(6), was by letter dated October 31, 2003.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of **October 31, 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.

Van Sloten, 48 Cal. 3d 921:

Respondent Van Sloten represented client in a marital dissolution matter. He worked on the matter for 5 months, submitted a proposed settlement agreement to the opposing side. Thereafter, he failed to communicate take action or withdraw for a period of one year. Eventually the client hired new counsel. The court concluded that a single act of failing to perform without serious harm to the client aggravated by his failure to appreciate the discipline process (he failed to appear at the Review Department Hearing proceedings) warranted 6 mo stayed suspension, one year probation, no actual.

Respondent Turner's misconduct is less egregious in that her failure to perform only occurred over the 5 month period that she worked on the Lees' matter.

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

Respondent Gillis was found culpable of entering into an improper business transaction with a client, an act of moral turpitude and failing to maintain confidences of his client in violation of Business and Professions Code, section 6068(e) when he disclosed his client's confidential settlement agreement to the client's mortgage lender. Gillis received 6 months actual suspension and 3 years probation.

Lees discipline is warranted in this matter because Respondent Turner's misconduct is less egregious in that she did not commit an act of moral turpitude or enter into an improper business transaction with the Lees.

11/3/03
Date

Janis L. Turner
Respondent's signature

JANIS L. TURNER
print name

Date

Respondent's Counsel's signature

print name

11.5.03
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.)

12/2/03
Date

Alban P. Pile
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 December 5, 2003, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION
AND ORDER APPROVING, filed December 5, 2003**

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

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

**JANIS LOUIS TURNER ESQ
2515 CAMINO DEL RIO S #324
SAN DIEGO CA 92108-3737**

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

SHARI SVENINGSON, ESQ., Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 5, 2003.



Angela Owens-Carpenter
Case Administrator
State Bar Court