



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 Diane J. Meyers Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1000 Bar # 146643	Case number(s) 02-O-13363-RAP; 02-O-13617 02-O-14264; 02-O-14586; 02-O-14923; 03-H-05010; 03-O-02544; 03-O-03644; 03-O-03716; 03-O-04297; 03-O-04676; 04-O-11767; 04-O-14837; 04-O-15116; 05-O-01733	(for Court's use) <div style="text-align: center; font-size: 2em; font-weight: bold;">FILED</div> <div style="text-align: center; font-size: 1.2em;">FEB 09 2006 <i>DOC</i></div> <div style="text-align: center; font-size: 0.8em;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</div> <div style="text-align: center; font-size: 1.5em; font-weight: bold; margin-top: 20px;">PUBLIC MATTER</div>
<input type="checkbox"/> Counsel for Respondent <input checked="" type="checkbox"/> In Pro Per, Respondent ELIZABETH A. BARRANCO [aka Elizabeth A. Guittard]	Submitted to <input type="checkbox"/> assigned judge <input checked="" type="checkbox"/> settlement judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
Bar # 115421 In the Matter of ELIZABETH A. BARRANCO Bar # 115421 A Member of the State Bar of California (Respondent)		

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 December 3, 1984
(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 41 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):

- until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
- costs to be paid in equal amounts prior to February 1 for the following membership years:
2007, 2008, 2009 and 2010.
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
- costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
- costs entirely waived

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 01-0-01353

(b) Date prior discipline effective August 22, 2001

(c) Rules of Professional Conduct/ State Bar Act violations: _____

Rules of Professional Conduct, rule 4-100(A).

(d) Degree of prior discipline Private Reproval

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

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- (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.
See attachment to stipulation at p. 31.
- (8) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

See attachment to stipulation at p. 32.

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.
- (5) **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) **Good Faith:** Respondent acted in good faith.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct, Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.

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- (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:

See attachment to stipulation at pp.32-36.

D. Discipline:

(1) **Stayed Suspension:**

- (a) Respondent must be suspended from the practice of law for a period of two years
 - i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.
 - ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
 - iii. and until Respondent does the following: _____
- (b) The above-referenced suspension is stayed.

(2) **Probation:**

Respondent must be placed on probation for a period of four years which will commence upon the effective date of the Supreme Court order in this matter.
(See rule 953, Calif. Rules of Ct.)

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(3) **Actual Suspension:**

(a) Respondent must be actually suspended from the practice of law in the State of California for a period of one year.

- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

iii. and until Respondent does the following: _____

E. Additional Conditions of Probation:

- (1) If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2) During the probation period, Respondent 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 of the State Bar 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 thirty (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 period of probation. 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 probation during the preceding calendar quarter. Respondent must also state 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 30 days, that report must 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.

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

(Do not write above this line.)

- (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 at a session of the Ethics School, and passage of the test given at the end of that session. See attachment to stipulation at p. 39.
- No Ethics School recommended. 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 to be filed with the Office of Probation.
- (10) The following conditions are attached hereto and incorporated:
- | | |
|--|--|
| <input type="checkbox"/> Substance Abuse Conditions | <input checked="" type="checkbox"/> Law Office Management Conditions |
| <input checked="" type="checkbox"/> Medical Conditions | <input checked="" type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** 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 during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 951(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
- No MPRE recommended. Reason: _____
- (2) **Rule 955, California Rules of Court:** Respondent must comply with the requirements of rule 955, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) **Conditional Rule 955, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 955, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension: _____
- (5) **Other Conditions:**
See attachment to stipulation at p. 38.

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In the Matter of ELIZABETH A. BARRANCO	Case Number(s): 02-0-13363-RAP, et al.
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Financial Conditions

a. Restitution

- Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF of the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From

- Respondent must pay the above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than _____.

b. Instalment Restitution Payments

- Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency

c. Client Funds Certificate

1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- a. Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

(Do not write above this line.)

In the Matter of ELIZABETH A. BARRANCO	Case Number(s): 02-0-13363-RAP, et al.
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- b. Respondent has kept and maintained the following:
- i. a written ledger for each client on whose behalf funds are held that sets forth:
 1. the name of such client;
 2. the date, amount and source of all funds received on behalf of such client;
 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
 4. the current balance for such client.
 - ii. a written journal for each client trust fund account that sets forth:
 1. the name of such account;
 2. the date, amount and client affected by each debit and credit; and,
 3. the current balance in such account.
 - iii. all bank statements and cancelled checks for each client trust account; and,
 - iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.

c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:

- i. each item of security and property held;
- ii. the person on whose behalf the security or property is held;
- iii. the date of receipt of the security or property;
- iv. the date of distribution of the security or property; and,
- v. the person to whom the security or property was distributed.

2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.

3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

d. Client Trust Accounting School

- Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

(Do not write above this line.)

In the Matter of ELIZABETH A. BARRANCO	Case Number(s): 02-0-13363-RAP, et al.
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NOLO CONTENDERE PLEA TO STIPULATION AS TO FACTS, CONCLUSIONS OF LAW AND DISPOSITION

Bus. & Prof. Code § 6085.5 Disciplinary Charges; Pleas to Allegations

There are three kinds of pleas to the allegations of a notice of disciplinary charges or other pleading which initiates a disciplinary proceeding against a member:

- (a) Admission of culpability.
- (b) Denial of culpability.
- (c) **Nolo contendere**, subject to the approval of the State Bar Court. The court shall ascertain whether the member completely understands that a plea of nolo contendere shall be considered the same as an admission of culpability and that, upon a plea of nolo contendere, the court shall find the member culpable. The legal effect of such a plea shall be the same as that of an admission of culpability for all purposes, except that the plea and any admissions required by the court during any inquiry it makes as to the voluntariness of, or the factual basis for, the pleas, may not be used against the member as an admission in any civil suit based upon or growing out of the act upon which the disciplinary proceeding is based. (Added by Stats. 1996, ch. 1104.) (emphasis supplied)

RULE 133, Rules of Procedure of the State Bar of California STIPULATIONS AS TO FACTS, CONCLUSIONS OF LAW AND DISPOSITION

(a) A proposed stipulation as to facts, conclusions of law, and disposition must set forth each of the following:

- (5) a statement that Respondent either
 - (i) admits the facts set forth in the stipulation are true and that he or she is culpable of violations of the specified statutes and/or Rules of Professional Conduct or
 - (ii) pleads nolo contendere to those facts and violations. If the Respondent pleads nolo contendere, the stipulation shall include each of the following:
 - (a) an acknowledgment that the Respondent completely understands that the plea of nolo contendere shall be considered the same as an admission of the stipulated facts and of his or her culpability of the statutes and/or Rules of Professional Conduct specified in the stipulation; and
 - (b) if requested by the Court, a statement by the Deputy Trial Counsel that the factual stipulations are supported by evidence obtained in the State Bar investigation of the matter. (emphasis supplied)

I, the Respondent in this matter, have read the applicable provisions of Bus. & Prof. Code § 6085.5 and rule 133(a)(5) of the Rules of Procedure of the State Bar of California. I plead nolo contendere to the charges set forth in this stipulation and I completely understand that my plea must be considered the same as an admission of culpability except as stated in Business and Professions Code section 6085.5(e).

2-6-06 
Date Signature

ELIZABETH A. GUITTARD
Print name

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: ELIZABETH BARRANCO

CASE NUMBER(S): 02-O-13363, ET AL.

FACTS AND CONCLUSIONS OF LAW.

Case No. 03-H-05010

Facts

1. On or about July 29, 2001, Respondent entered into a Stipulation Re: Facts, Conclusions of Law and Disposition and Order Approving Private Reapproval ("Stipulation") with the State Bar of California in case number 01-O-01353.

2. Respondent's private reapproval became effective on August 22, 2001. Respondent was required to comply with the conditions attached to the reapproval for an 18-month period, including attending State Bar Ethics School ("Ethics School") within one year of the effective date of the reapproval.

3. On April 24, 2003, Respondent filed a motion to modify the conditions of her reapproval.

4. On April 30, 2003, the Hearing Department modified its reapproval order by extending the time within which Respondent was required to attend Ethics School and take and pass the examination given at the end of that session until July 31, 2003.

5. Respondent did not attend Ethics School by July 31, 2003, and consequently, she did not take and pass the examination given at Ethics School.

Conclusion of Law

6. By not attending Ethics School by July 31, 2003, and by not taking and passing the Ethics School examination by July 31, 2003, Respondent failed to comply with terms and conditions of a private reapproval imposed by order of the State Bar Court, in wilful violation of Rules of Professional Conduct, rule 1-110.

Case Nos. 02-O-13363; 02-O-13617; 02-O-14264; 02-O-14586; and 02-O-14923

Facts

7. At all times herein mentioned, Respondent maintained a client trust account at Union Bank of California ("Union Bank"), number 0080036779 ("the CTA").

8. From March 2002 through and including September 2002, Respondent used the CTA as her personal checking account by (a) repeatedly depositing personal funds into the CTA, including but not limited to earned fees; (b) writing checks and making online withdrawals from the CTA for personal expenses and (c) advancing the payment of client costs from her personal funds in the CTA.

9. From March 28, 2002 through and including September 24, 2002, Respondent issued thirty-four checks and made seven online withdrawals from the account against insufficient funds when she knew or should have known that there were insufficient funds in the CTA to honor the checks and withdrawals. Thirty-three of the checks and the seven online withdrawals were for Respondent's personal expenses. One check, check 1117, payable to "DOJ" in the amount of \$35.70, represented an advance of costs for discovery photocopies in an appointed criminal case.

Conclusions of Law

10. By repeatedly depositing Respondent's personal funds into the CTA; by issuing checks and making online withdrawals from the CTA for Respondent's personal expenses; and by advancing the payment of client costs from Respondent's personal funds in the CTA, Respondent commingled funds belonging to Respondent in a client trust account, in wilful violation of Rules of Professional Conduct, rule 4-100(A).

11. By repeatedly issuing checks and making online withdrawals from the CTA when she knew or should have known that there were insufficient funds in the CTA to honor the checks and withdrawals, Respondent committed acts of moral turpitude, in wilful violation of Business and Professions Code, section 6106.

Case No. 03-O-02544

Facts

12. In or about June 2001, Catalina Ramos ("Ms. Ramos") retained Respondent to prepare and file a petition for writ of habeas corpus on behalf of her son, Michael Ramos ("Ramos"). On or about June 21, 2001, Ms. Ramos executed a retainer agreement drafted by Respondent.

13. On or about July 18, 2001, Ms. Ramos gave Respondent a \$4,000 check for expert and investigative fees in Ramos's matter.

14. On or about August 1, 2001, Ms. Ramos gave Respondent a \$25,000 check for fees in Ramos's matter.

15. Respondent sent a letter to Ramos and Ms. Ramos, dated August 6, 2001, advising them that she would file a federal habeas petition by January 18, 2002. In the August 6, 2001 letter, Respondent informed Ramos and Ms. Ramos that she had retained an accident reconstruction expert who would provide her with a report within 30 days, relevant to Ramos's matter.

16. Respondent received an Accident Reconstruction Report, dated January 2, 2002.

17. Respondent sent Ramos a letter, dated May 1, 2002, in which she informed Ramos that she did not believe that filing a federal habeas petition would be of assistance to him. However, the May 1, 2002 letter reflected Respondent's intention to pursue state remedies on his behalf.

18. Respondent sent Ramos letters, dated August 5 and December 4, 2002, in which she stated that she was waiting for an expert witness declaration for Ramos's state habeas petition. Thereafter, Respondent did not file any habeas petition for Ramos, and did not complete the legal services for which she was hired.

19. On May 27, 2003, Respondent was evicted from her home where she maintained her office. Respondent moved her office without informing Ms. Ramos or Ramos of her whereabouts. Respondent did not inform Ramos that she would not be completing the legal services for which she was hired. Respondent withdrew from representation after June 30, 2003, when Ms. Ramos retained attorney Joseph F. Walsh ("Walsh") to represent Ramos.

20. Respondent did not promptly release Ramos's file upon learning that Walsh had been hired to represent Ramos.

21. Ms. Ramos sent a letter to Respondent, dated April 20, 2004, in which she requested that Respondent refund unearned fees.

22. Respondent acknowledges that an undetermined partial refund is due to Mrs. Ramos, but disputes that a full refund is due. Respondent did not inform Mrs. Ramos of her right to resolve the dispute over the amount of unearned fees through fee arbitration, and consequently, has not promptly refunded the unearned portion of the fees paid.

Conclusions of Law

23. By not completing the legal services for which she was hired in Ramos's matter, Respondent wilfully violated Rules of Professional Conduct, rule 3-110(A).

24. By moving her office without informing Mrs. Ramos or Ramos of her whereabouts; by not informing Ramos that she would not be completing the legal services for which she was

hired; by not promptly withdrawing from her representation of Ramos; by not promptly releasing Ramos's file; and by not promptly refunding the unearned portion of the fees, Respondent failed to take reasonable steps to avoid reasonably foreseeable prejudice to the rights of a client, including giving due notice to the client and complying with rule 3-700(D), in wilful violation of Rules of Professional Conduct, rule 3-700(A)(2).

Facts

25. On June 24, 2003, the State Bar opened an investigation, Case No. 03-O-02544, pursuant to a complaint filed by Catalina Ramos against Respondent ("the Ramos matter").

26. State Bar Investigator Rose Sandoval ("Sandoval") sent letters to Respondent, dated July 22 and August 19, 2003, regarding the Ramos matter. In Sandoval's letters, she requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Ramos matter.

27. Respondent received Sandoval's letters, but did not respond to Sandoval's letters or otherwise cooperate with Sandoval regarding the State Bar's investigation of the Ramos matter.

Conclusion of Law

28. By not providing a written response to Sandoval's letters and by not otherwise cooperating in the investigation of the Ramos matter, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent, in wilful violation of Business and Professions Code, section 6068(i).

Case No. 03-O-03644

Facts

29. Salvador Varela ("Varela"), an inmate of Calipatria prison, hired Respondent for legal representation through his sister, Celia Varela ("Celia"). At the time of employment, Celia paid Respondent a \$750 retainer.

30. Respondent sent Varela a letter, dated April 15, 2000, acknowledging the receipt of documents sent by Varela, i.e., appellate briefs, opinions, petition for review, denial of petition for review and client authorization.

31. Respondent sent a representation letter, dated May 5, 2000, to Varela's trial counsel, Michael Belter ("Belter"), requesting that Belter send her Varela's entire case file.

32. Respondent sent a representation letter, dated May 5, 2000, to the attorney who appealed Varela's conviction, Jill Bojarski ("Bojarski"), acknowledging receipt of transcripts and other records in the case and requesting that Bojarski send her Varela's entire case file.

33. On May 16, 2001, Respondent filed a federal petition for writ of habeas corpus on behalf of Varela.

34. Respondent sent a letter to Celia, dated June 20, 2001, in which she (a) acknowledged receipt of Celia's partial payment of \$1,000 on the balance due for the federal habeas petition; (b) requested a balance of \$500 by the end of the next week for the federal habeas petition; and (c) requested a \$2,500 fee for the state habeas petition.

35. On September 5, 2001, Respondent filed a Petitioner's Traverse to Respondent's Answer to First Petition for Writ of Habeas Corpus on behalf of Varela.

36. Respondent sent Celia a letter, dated September 5, 2001. In the letter, Respondent stated that she would need \$2,500 to pursue a state habeas petition and that she had credited \$600 from Celia's last payment against the state habeas case, but since she had not received the \$1,900 as requested, she reapplied the \$600 credit toward the \$1,500 due for the traverse. Respondent requested that Celia pay a \$900 balance for the traverse and advise her if she wanted Respondent to pursue a state habeas case.

37. Celia sent a letter to Respondent, dated September 7, 2001, with \$1,900. In the letter, Celia requested the status of Varela's matter.

38. Respondent sent Varela a letter, dated November 29, 2001, stating that she had requested and was awaiting information from Varela's prior attorney, the district attorney, and co-defendants' lawyers regarding Varela's unexhausted state claims.

39. Respondent did not file a state habeas corpus petition. Respondent maintains that she later determined that there was no merit to filing a state habeas petition and maintains that she was not fully compensated to file a state habeas petition for Varela.

40. On May 27, 2003, Respondent was evicted from her home where she maintained her office. Respondent moved her office without informing Celia or Varela of her whereabouts. Respondent did not inform Varela that she would not be filing a state habeas petition for him, did not withdraw from her representation of Varela, and did not release the file to Varela.

41. On or about September 10, 2003, the State Bar opened an investigation, Case No. 03-O-03644, pursuant to a complaint filed by Salvador Varela against Respondent ("the Varela matter").

42. State Bar Investigator Michael Henderson ("Henderson") sent letters to Respondent, dated September 26 and October 10, 2003, regarding the Varela matter. In Henderson's letters, he requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Varela matter, including an allegation that Respondent had not released transcripts from Varela's case.

43. Respondent did not respond to Henderson's letters or otherwise cooperate with Henderson regarding the State Bar's investigation of the Varela matter, and did not release Varela's file or transcripts.

44. Respondent disputes that a refund of fees is owed to Celia; however, Respondent did not inform Celia her right to resolve the dispute over whether or not a refund is due through fee arbitration.

Conclusions of Law

45. By moving her office without informing Celia or Varela of her whereabouts; by not informing Varela that she would not be filing a state habeas petition for him; by not withdrawing from her representation of Varela; and by not promptly releasing Varela's file; Respondent failed to take reasonable steps to avoid reasonably foreseeable prejudice to the rights of a client, including giving due notice to the client and complying with rule 3-700(D), in wilful violation of Rules of Professional Conduct, rule 3-700(A)(2).

46. By not providing a written response to Henderson's letters and by not otherwise cooperating in the investigation of the Varela matter, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent, in wilful violation of Business and Professions Code, section 6068(i).

Case No. 03-O-03716

Facts

47. In October 2001, Brenda L. Kelson ("Kelson"), an inmate of Chowchilla prison, sent Respondent a letter of inquiry concerning her availability in representing Kelson in her criminal appeal.

48. Respondent sent Kelson a letter, dated October 26, 2001, in which she stated that she could evaluate the merits of a habeas corpus petition for a \$750 fee. Further, Respondent stated that if she determined there was merit in filing such a petition, she would charge additional fees.

49. In March 2002, Virgil Robinson ("Mr. Robinson") retained Respondent to evaluate the merits of filing a habeas corpus petition for Kelson. On or about March 4, 2002, Mr. Robinson paid Respondent a \$750 fee for Respondent's evaluation.

50. Respondent sent Kelson a letter, dated September 28, 2002, acknowledging that future payments for legal fees incurred on behalf of Kelson would be paid by Mr. Robinson and agreeing to a first payment of \$5,000, with a remaining balance of \$2,500 to be paid in \$300 monthly installments, for drafting and filing a habeas petition.

51. On May 27, 2003, Respondent was evicted from her home where she maintained her office. Respondent moved her office without informing Kelson of her new address.

52. Respondent sent Kelson a letter, dated April 24, 2003, explaining that Respondent "had expected to finish the petition in November [2002] but then decided to wait until the Supreme Court decided the Bray-Brown cases." Respondent stated that she would be sending a draft of the petition to Kelson within "the next few weeks".

53. After April 24, 2003, Kelson sent Respondent several letters in which she inquired as to the status of her legal matter. Respondent did not respond to Kelson's letters. Respondent did not inform Kelson that she would not be completing the legal services for which she was hired and did not withdraw from her representation of Kelson.

54. Respondent did not file a habeas petition for Kelson, and did not complete the legal services for which she was hired.

55. Respondent did not fully earn the fees paid by Mr. Robinson for Kelson's matter and did not refund the unearned portion of the fees to Mr. Robinson's estate. Mr. Robinson had passed away on September 17, 2003.

Conclusions of Law

56. By not completing the legal services for which she was hired in the Kelson matter, Respondent wilfully violated Rules of Professional Conduct, rule 3-110(A).

57. By not responding to Kelson's letters requesting the status of her matter, Respondent failed to respond promptly to reasonable status inquiries of a client, in wilful violation of Business and Professions Code, section 6068(m).

58. By moving her office without informing Kelson of her whereabouts; by not informing Kelson that she would not be completing the legal services for which she was hired; by not withdrawing from her representation of Kelson; and by not refunding unearned fees to Mr. Robinson's estate, Respondent failed to take reasonable steps to avoid reasonably foreseeable prejudice to the rights of a client, including giving due notice to the client and complying with rule 3-700(D), in wilful violation of Rules of Professional Conduct, rule 3-700(A)(2).

Facts

59. On September 15, 2003, the State Bar opened an investigation, Case No. 03-O-03716, pursuant to a complaint filed by Brenda L. Kelson against Respondent (the "Kelson matter").

60. State Bar Investigator Michael Henderson ("Henderson") sent letters to Respondent, dated September 26 and October 10, 2003, regarding the Kelson matter. In Henderson's letters, he requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Kelson matter.

61. Respondent did not respond to Henderson's letters or otherwise cooperate with Henderson regarding the State Bar's investigation of the Kelson matter.

Conclusion of Law

62. By not providing a written response to Henderson's letters and by not otherwise cooperating in the investigation of the Kelson, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent, in wilful violation of Business and Professions Code, section 6068(j).

Case No. 03-O-04297

Facts

63. Paragraphs 8 through 10 are incorporated by reference.

64. In response to an inquiry from Allen Roy Hobbs ("Hobbs"), an inmate of Calipatria prison, Respondent sent Hobbs a letter, dated October 27, 2000, in which she stated that she would evaluate the merits of his pending civil lawsuit against the correctional staff at the prison, *Allen Roy Hobbs v. K. R. Hensley, et al.*, California Superior Court, Imperial County Case No. 93415 ("Hobbs's civil matter"), for a \$750 fee. In the letter, Respondent also requested Hobbs to send her a copy of all court documents as well as deposition transcripts and other discovery materials in Hobbs's possession.

65. On December 2, 2000, Hobbs paid \$50 to Respondent from his inmate trust account at the Department of Corrections ("Hobbs's account") toward the \$750 evaluation fee.

66. Respondent sent Hobbs a letter dated December 21, 2000. In the December 21, 2000 letter, Respondent acknowledged a \$50 payment from Hobbs towards the \$750 evaluation fee and advised Hobbs that she was "still in the process of doing that evaluation (meaning [she] ha[d]'nt read each and every document yet)".

67. Because an arbitration hearing was pending, Respondent proposed in the December 21, 2000 letter that Respondent substitute in as attorney of record in Hobbs's civil matter, even though she had not completed her evaluation of the merits of the case. She also proposed an hourly fee compensation of \$150 per hour and reimbursement of costs to be paid from the court award. If Respondent's attorney fees and costs exceeded the award, then Respondent's fees would be limited to 25 percent of any settlement award or 33 percent of any jury award. In the meantime, \$50 monthly withdrawals from Hobbs's inmate trust account would continue until the \$750 evaluation fee was paid in full.

68. On December 22, 2000, Hobbs paid \$50 to Respondent from Hobbs's account toward the \$750 evaluation fee.

69. On or about December 28, 2000, Hobbs agreed to Respondent's December 21, 2000 fee proposal.

70. On January 19, 2001, a substitution of counsel signed by Hobbs and naming Respondent as his counsel was filed with the court in Hobbs's civil matter.

71. On January 25, February 23, April 20, May 4, May 25, and July 3, 2001, Hobbs made \$50 payments to Respondent from Hobbs's account toward the \$750 evaluation fee.

72. Respondent sent Hobbs letters dated April 27, May 17 and June 7, 2001, concerning the status of his civil case.

73. Respondent sent to Hobbs's mother, Helen Hobbs ("Ms. Hobbs"), a letter dated July 6, 2001, concerning Respondent's fee arrangement with Hobbs. In the July 6, 2001 letter, Respondent confirmed that in addition to Hobbs's civil matter, she also had been retained by Hobbs to file a petition for writ of habeas corpus in connection with his criminal conviction, and that she expected to incur certain costs for expert or investigative services in connection with that matter. Respondent stated, "The money to be used for those costs will be money provided by Allen [Hobbs] and placed in a trust account. The source of that money will either be the wages he earns in prison or his anticipated civil settlement." She also stated, "My attorneys fees for the habeas case have been paid in the sense that I promised your son I would handle that matter pro bono if he would recommend [inmate Garrett] be hired at the joint venture company at Calipatria State Prison. Based on Allen's recommendation, [inmate Garrett] was subsequently interviewed, tested and hired."

74. Respondent sent Hobbs a letter dated July 25, 2001. In the July 25, 2001 letter, Respondent proposed that (a) \$400 which Hobbs had paid towards the "case evaluation fee" be treated as advanced costs; (b) she would waive the case evaluation fee; (c) Hobbs continue to pay \$50 per month from Hobbs's account to Respondent until the case was resolved; (d) any future payments would be placed in Respondent's trust account and held for future costs; and (e) Respondent would refund any of Hobbs's funds in the trust account that were not used for costs in the form of a money order sent to Hobbs's inmate trust account. With the July 25, 2001 letter, Respondent enclosed a "Statement Re Legal Fees" which itemized 28.5 hours spent by Respondent on Hobbs's civil matter in the sum of \$4,275; itemized the prior eight \$50 deposits from Hobbs's account; and "current costs" of \$15 owed to United Postal Service and \$438 owed for court reporter fees. Hobbs accepted the modifications proposed in Respondent's July 25, 2001 letter.

75. On or about August 1, 2001, check number 2984 from the CTA in the amount of \$438 was paid from the \$400 Respondent received from Hobbs's account to Verbatim Reporting for Hobbs's civil matter.

76. On August 2, September 21, November 1, November 13, and December 3, and December 18, 2001, and January 14, 2002, Hobbs made \$50 payments to Respondent from Hobbs's account.

77. Respondent maintains that prior to January 18, 2002, Hobbs informed Respondent that he could withdraw money from Hobbs's account to pay her attorney fees and costs. Respondent maintains that Hobbs told Respondent to prepare a bill totaling no more than \$6,000, but that the amount that she was actually owed at that time was over \$8,000.

78. Respondent sent Hobbs a letter, dated January 18, 2002, in which she informed him that she owed \$812.35 for a deposition transcript in the civil case. Respondent maintains that after this letter was sent, she told Hobbs that she could not advance the cost of the deposition if she wasn't paid her fees. In the January 18, 2002 letter, Respondent also told Hobbs that after he had other money transferred from Hobbs's account, she would divide the funds according to his wishes. She also stated, "Attorney client trust accounts are carefully monitored by the state bar and are not the same as regular bank accounts. Playing games with one's trust account is almost a guarantee of disbarment." Respondent also told Hobbs to set aside some money to retain a corrections expert and for future transcript costs. Respondent informed Hobbs that she had not scheduled the arbitration because she had not paid the transcript fee.

79. Hobbs sent a letter, dated February 9, 2002 to the warden of the Calipatria State Prison in which he requested permission to withdraw \$6,000 from Hobbs's account, pursuant to California Code of Regulations, Title 15, section 3483(e)(2). In the letter, Hobbs stated that he had been informed by Respondent that she was unable to move forward with his civil case due to the lack of funds. Respondent maintains that Hobbs enclosed a copy of a fee statement from Respondent with his letter in support of his request.

80. On March 5, 2002, Hobbs paid \$50 to Respondent from Hobbs's account.

81. On March 11, 2002, the Department of Corrections approved the transfer of \$6,000 from Hobbs's account to Respondent for attorney fees.

82. On March 29, 2002, Respondent deposited a \$6,000 check from Hobbs's account into the CTA. At the time of the deposit, the balance in the CTA was negative \$1,115.99.

83. Respondent maintains that the entire \$6,000 represented earned fees; that she used the \$6,000 for personal and business expenses; and that she advanced costs for Hobbs's civil matter directly from other funds deposited into the CTA. Hobbs maintains that the \$6,000 was advanced for costs. Respondent acknowledges that she unilaterally determined that she was entitled to the entire \$6,000 as fees, and withdrew disputed funds from the CTA as fees without Hobbs's written consent. The CTA records show that the balance in the CTA fell below the minimum amount that should have been maintained in the CTA on Hobbs's behalf, or \$1,849.65, as follows:

a. On March 29, 2002, Respondent withdrew \$400 from the CTA for her personal benefit.

b. On March 29, 2002, check number 1075 from the CTA in the

amount of \$615, which had been paid on March 28, 2002 against insufficient funds for Respondent's personal expense, was reversed and \$615 was credited to the CTA.

c. On March 29, 2002, a \$5 service charge and a \$15 insufficient funds check charge were debited from the CTA.

d. The ending balance in the CTA on March 29 and 30, 2002 was \$5,084.01.

e. On April 1, 2002, Respondent deposited \$2,500 in personal funds into the CTA and withdrew \$1,500.

f. On April 1, 2002, check number 1075 was paid from the CTA.

g. On April 2, 2002, check number 1021 in the amount of \$79.03 for Respondent's personal expense was paid from the CTA.

h. On April 2, 2002, check number 1025 in the amount of \$415 for Respondent's personal expense was paid from the CTA.

i. On April 2, 2002, check number 1078 in the amount of \$18.35 for Respondent's personal expense was paid from the CTA.

j. On April 2, 2002, check number 1070 in the amount of \$812.35 to Verbatim Reporting for a cost related to Hobbs's civil matter was paid from the CTA.

k. On April 3, 2002, Respondent deposited \$835.50 of her personal funds into the CTA.

l. On April 5, 2002, Respondent deposited \$1,600 into the CTA which she received from Velma Brown for fees in another client matter of Theodis Brown.

m. From April 3 to April 11, 2002, Respondent withdrew other funds from the CTA for personal expenses.

n. On April 11, 2002, check number 1091 in the amount of \$500 to Ms. Hobbs was paid from the CTA.

o. On April 11, 2002, the ending balance in the CTA was \$1,845.46.

p. On April 19, 2002, without making any other disbursements related to Hobbs, the balance in the CTA fell to negative \$69.99.

q. On May 1, 2002, check number 1050 in the amount of \$700 to J.M. Cooke, for Hobbs's matter, was paid from the CTA, from other funds deposited by Respondent.

84. Respondent sent a letter to Hobbs, dated April 11, 2002, regarding opening an Ameritrade account for Hobbs.

85. Respondent sent an accounting to Hobbs, dated May 1, 2002, on which she stated that she had reconstructed Hobbs's payments "as a trust account". In the accounting, Respondent listed the prior eight \$50 deposits from Hobbs's account, the prior offset of \$438 to Verbatim Reporting, and the following offsets from the \$6,000 received from Hobbs, as follows:

<u>Date</u>	<u>Check #</u>	<u>Payee</u>	<u>Amount</u>	<u>Deposit</u>	<u>Balance</u>
					\$ 362.00
03/30/02				\$6,000	\$6,362.00
03/30/02	1070	Verbatim Reporting	\$812.35		\$5,549.65
04/01/02	1091	Helen Hobbs	\$500		\$5,049.65
04/15/02	1051	Ameritrade	\$2,500		\$2,549.65
04/15/02	1050	J.M. Cooke	\$700		\$1,849.65

86. Respondent's records regarding the dates of check numbers 1070, 1051, and 1050 were inaccurate. Since she had treated the CTA as a personal account and Hobbs's funds as earned fees, she did not keep accurate and updated records. For example, check number 1051 to Ameritrade was dated April 26, 2002, not April 15, 2002, as indicated in her accounting. Further, check number 1051 was not paid from the CTA until May 8, 2002. Respondent did not intend to mislead Hobbs by the inaccurate dates in her accounting.

87. On July 16, 2002, Respondent deposited \$200 received from Hobbs's account for attorney fees into the CTA.

88. On May 27, 2003, Respondent was evicted from her home where she maintained her office. Respondent did not request that Hobbs's civil matter be set for trial and Respondent did not otherwise resolve Hobbs's civil matter. Respondent discovered that Hobbs's conviction was affirmed in a Court of Appeal case number E011592 in 1994; that the Supreme Court had denied his petition for review in case number S043913 in 1995; and that he tried to file another appeal in 1997 which was rejected in Court of Appeal case number E020565. Respondent determined that there were no meritorious grounds to seek further review of Hobbs's conviction. Respondent did not inform Hobbs that she would not be completing the legal services for which she was hired, did not withdraw from her representation of Hobbs, and did not promptly release Hobbs's file.

Conclusions of Law

89. By not resolving Hobbs's civil matter, Respondent failed to complete the legal services for which she was hired, in wilful violation of Rules of Professional Conduct, rule 3-110(A).

90. By not informing Hobbs that she would not be completing the legal services for which she was hired; by not promptly withdrawing from her representation of Hobbs; and by not promptly releasing Hobbs's file, Respondent failed to take reasonable steps to avoid reasonably foreseeable prejudice to the rights of a client, including giving due notice to the client and complying with rule 3-700(D), in wilful violation of Rules of Professional Conduct, rule 3-700(A)(2).

91. By unilaterally determining that she was entitled to the entire \$6,000 received from Hobbs's account as attorney fees, and by not maintaining at least \$1,849.65 in the CTA for Hobbs, Respondent failed to maintain client funds in a client trust account, in wilful violation of Rules of Professional Conduct, rule 4-100(A).

Case No. 03-O-04676

Facts

92. On October 18, 1999, Velma Brown ("Ms. Brown") retained Respondent to evaluate the merits of a habeas corpus petition on behalf of her son, Theodis Brown ("Brown"). At the time of employment, Ms. Brown paid Respondent a \$750 evaluation fee.

93. Respondent sent Brown a letter, dated December 29, 1999, in which she acknowledged a January 29, 2000 deadline for filing a federal habeas petition.

94. Respondent sent a representation letter, dated March 30, 2000, to a prior attorney of Brown, Mario Rodriguez ("Rodriguez"), in which she acknowledged the receipt of trial transcripts and appellate briefs and requested that Rodriguez send her Brown's entire case file. Respondent advised Rodriguez of an April 19, 2000 deadline for filing a federal habeas petition.

95. Respondent sent a representation letter, dated March 30, 2000, to a prior attorney of Brown, David Y. Stanley ("Stanley"), in which she requested that Stanley send her Brown's entire case file.

96. Respondent sent Brown a letter, dated March 30, 2000, in which she acknowledged a payment of \$3,000 from Ms. Brown for Respondent's work on the federal habeas petition. In her March 30, 2000 letter, Respondent recommended to Brown the merits of filing a state habeas petition and requested an additional \$3,000 by April 15, 2000 to draft and file the state petition.

97. Respondent sent Brown a letter, dated April 10, 2000, in which she acknowledged a payment of \$1,000 from Ms. Brown towards the \$3,000 fee for the state petition.

98. Respondent sent Brown a letter, dated June 7, 2000, in which she advised Brown that she just received two banker's boxes of trial files from Rodriguez.

99. Respondent sent Ms. Brown a letter, dated April 14, 2002, in which she advised Ms. Brown there was no merit to filing a federal habeas petition and that Respondent was working on the state petition. In Respondent's April 14, 2002 letter, she acknowledged that she had received a total amount of \$6,750 from Ms. Brown.

100. Respondent did not file a federal or state habeas corpus petition for Brown, and did not complete the legal services for which she was hired.

101. Respondent did not fully earn the fees paid for Brown's matter, and did not refund the unearned portion of the fees paid to Brown.

Conclusions of Law

102. By not completing the legal services for which she was hired in Brown's matter, Respondent wilfully violated Rules of Professional Conduct, rule 3-110(A).

103. By not refunding the unearned portion of the fees paid to Brown, Respondent failed to promptly refund any part of a fee paid in advance that had not been earned, in wilful violation of Rules of Professional Conduct, rule 3-700(D)(2).

Case No. 04-O-11167

Facts

104. On or about September 11, 2001, Frank Szutenbach ("Frank") retained Respondent to represent his wife, Leslie Szutenbach ("Szutenbach"), in the state appeal of Szutenbach's conviction, Superior Court Case No. SCD146894. A retainer agreement dated September 11, 2001, and signed by Respondent, stated that for a fee of \$35,000 "[t]his representation include[d] the preparation and filing of a petition for review in the California Supreme Court. This representation also include[d] the preparation and filing of a petition for writ of habeas corpus in the Court of Appeal and California Supreme Court. . ."

105. Respondent sent Szutenbach a letter, dated September 18, 2001, in which she confirmed Respondent's receipt of \$15,000 paid by Szutenbach's prior attorney from funds that had remained in his trust account and a \$20,000 check paid by Frank.

106. On March 11, 2002, Respondent filed an Opening Brief on behalf of Szutenbach in the Court of Appeal, Case No. D-38012.

107. On October 9, 2002, the Attorney General filed the Respondent's Brief.

108. Respondent sent Szutenbach a letter, dated October 17, 2002, advising Szutenbach that Respondent had until October 29, 2002, to file a reply to the Attorney General's Brief and that she "believe[d] [she] will be able to file the reply on or before the due date."

109. On May 27, 2003, Respondent was evicted from her home where she maintained her office. Respondent moved her office without informing Szutenbach of her whereabouts.

110. On or about March 18, 2003, Frank faxed a print out of the Court of Appeals' docket entries to Respondent. The print out indicated that Szutenbach's case had been ordered submitted on March 14, 2003.

111. Respondent sent Szutenbach a letter dated March 21, 2003 regarding Szutenbach's matter. In the letter, Respondent stated that the court would render an opinion in June 2003, not in April 2003 as she had predicted; that the court's decision would have been delayed further if she had requested oral argument; that in her judgment, oral argument was unnecessary; and that if the court's decision was unfavorable, she could file a petition for rehearing, and thereafter, a petition for review in the Supreme Court.

112. On April 21, 2003, the Court of Appeals rendered its opinion, affirming Szutenbach's conviction.

113. Respondent sent Szutenbach a letter, dated April 22, 2003, regarding Szutenbach's matter. In the letter, Respondent stated that the Court of Appeal affirmed the conviction on April 21, 2003; that she had 15 days to file a petition for rehearing; that if she did not file for rehearing, she had to file a petition for review in the Supreme Court no sooner than May 21, 2003 and no later than May 15, 2003; that she was unsure if she would file a petition for rehearing, but she would eventually file a petition for review; and that she would inform Szutenbach of her decision.

114. Respondent sent Szutenbach a letter, dated May 1, 2003, regarding Szutenbach's matter. In the letter, Respondent stated that the time frame in which she could file a petition for review was May 15 to May 25, 2003. Respondent requested that Szutenbach confirm that she wanted Respondent to file a petition for review for her. On or about May 10, 2003, Szutenbach sent a letter to Respondent in which she requested that Respondent file the petition for review and a petition for rehearing.

115. Respondent did not file a petition for review on behalf of Szutenbach. Respondent believed that there were no meritorious grounds upon which to seek federal habeas relief. Respondent did not inform Szutenbach that she would not be filing a petition for review; did not promptly withdraw from her representation of Szutenbach, and did promptly release Szutenbach's file to her. Respondent represents that she released the file to Szutenbach's trial counsel in August 2003.

116. Respondent disputes that any of the fees paid for Szutenbach's matter were unearned; however, after learning that Szutenbach was demanding a refund of unearned fees,

Respondent did not inform Szutenbach of her right to resolve the dispute over whether or not a refund is due through fee arbitration.

Conclusion of Law

117. By moving her office without informing Szutenbach of her whereabouts; by not informing Szutenbach that she would not be filing a petition for review; by not promptly withdrawing from her representation of Szutenbach; and by not promptly releasing Szutenbach's file, Respondent failed to take reasonable steps to avoid reasonably foreseeable prejudice to the rights of a client, including giving due notice to the client and complying with rule 3-700(D), in wilful violation of Rules of Professional Conduct, rule 3-700(A)(2).

Case No. 04-O-14837

Facts

118. On or about December 14, 1999, the District Court appointed Respondent and attorney Russell S. Babcock ("Babcock") as counsel on behalf of condemned inmate Rudolph Jose Roybal ("Roybal").

119. On September 29, 2000, Respondent and Babcock filed a petition for writ of habeas corpus regarding the previously exhausted claims in state court on automatic appeal. The District Court granted Respondent's request to hold the federal petition in abeyance to allow Respondent and Babcock to return to state court to exhaust all of Roybal's state claims.

120. On December 12, 2001, the Supreme Court filed an order appointing Respondent and Babcock as counsel for Roybal, the former as lead counsel and the latter as associate counsel.

121. On May 27, 2003, Respondent was evicted from her home where she maintained her office. Respondent moved her office without informing Roybal of her whereabouts.

122. Roybal sent a letter, dated June 1, 2003, to Judge Jeffrey T. Miller ("Judge Miller") of the District Court complaining about Respondent's handling of his matter.

123. In or about September 2003, Babcock met and spoke with Respondent. Respondent informed him, among other things, that Roybal's case file may have been destroyed after her eviction from her residence.

124. On September 17, 2003, Judge Miller held an Order to Show Cause ("OSC") hearing which was attended by Respondent and Babcock. Judge Miller discussed Roybal's complaint made to the court and requested that Respondent submit "something under seal" by October 3, 2003 to the District Court, addressing whether she should remain of counsel on behalf of Roybal.

125. After September 17, 2003, Respondent failed to take any legal action or perform any work on Roybal's behalf. Respondent did not inform Roybal that she would not be completing the legal services for him and did not promptly withdraw from her representation of Roybal.

126. On October 23, 2003, Judge Miller held an OSC hearing. Judge Miller advised Babcock that Respondent was removed from the federal case and that Respondent had failed to file a statement with the court by October 3, 2003, as requested by the court on September 17, 2003.

127. On November 13, 2003, Judge Miller filed an order granting Babcock's request for a subpoena duces tecum and directing Respondent to appear at a hearing scheduled for November 24, 2003, with all materials pertaining to the Roybal case.

128. On November 24, 2003, Respondent informed Judge Miller by fax that she could not appear at the hearing as directed by the court because she had to attend a hearing in her family law matter. The court set another hearing for December 16, 2003.

129. On December 5, 2003, Respondent received notice of the December 16, 2003 hearing and she appeared at that hearing. On December 16, 2003, Respondent was ordered by the court to provide all materials in Roybal's matter to Babcock. Respondent complied with the court's order and supplied all materials to Babcock.

130. On September 29, 2004, the Supreme Court filed an order, vacating the appointment of Respondent as lead of counsel for Roybal and referring Respondent to the State Bar for appropriate action regarding her conduct.

Conclusions of Law

131. By failing to take any legal action or perform any work on Roybal's behalf after September 17, 2003, Respondent wilfully violated Rules of Professional Conduct, rule 3-110(A).

132. By moving her office without informing Roybal of her whereabouts; by not informing Roybal that she would not be completing the legal services for which she was appointed; by not promptly withdrawing from her representation of Roybal; and by not promptly releasing Roybal's file, Respondent failed to take reasonable steps to avoid reasonably foreseeable prejudice to the rights of a client, including giving due notice to the client and complying with rule 3-700(D), in wilful violation of Rules of Professional Conduct, rule 3-700(A)(2).

Case No. 04-O-15116

Facts

133. In or about June 2004, Carolyn Cremeans ("Cremeans") met with Respondent for

advice regarding potential claims she had against a bail bond agency. Cremeans paid Respondent \$300 cash. Respondent disputes that the \$300 was paid to draft a complaint for Cremeans. Respondent maintains that the \$300 was paid for her consultation with Cremeans and review of Cremeans's matter, and that she offered to prepare a civil complaint pro bono for Cremeans to file in pro per.

134. In August 2004, Respondent assured Cremeans that she still had her file and was willing to draft a complaint for her pro bono, but Respondent did not draft the complaint for Cremeans or release Cremeans file to her upon request.

135. On October 28, 2004, the State Bar opened an investigation, Case No. 04-O-15116, pursuant to a complaint filed by Cremeans against Respondent.

136. State Bar Investigator Michael Henderson ("Henderson") sent letters to Respondent, dated December 3 and December 15, 2004 about Cremeans's complaint, including a complaint that Respondent had failed to release Cremeans's file.

137. Respondent's attorney sent a letter to Cremeans, dated March 21, 2005, in which he requested that Cremeans contact him as soon as possible regarding the return of her file.

Conclusions of Law

138. By not drafting the complaint, Respondent did not complete the legal services that she had agreed to perform for Cremeans, in wilful violation of Rules of Professional Conduct, rule 3-110(A).

139. By not promptly releasing Cremeans file, Respondent failed to release promptly, at the request of the client upon termination of employment, all the client's papers and property, in wilful violation of Rules of Professional Conduct, rule 3-700(D)(1).

Case No. 05-O-01733

Facts

140. Respondent sent George Armenta ("Armenta"), an inmate of Corcoran State Prison, a letter, dated January 7, 2002, in which she informed Armenta that his mother, Georgina Morones ("Ms. Morones"), contacted Respondent regarding the filing of a habeas corpus petition on behalf of Armenta. In order to evaluate the merits of his case and determine the costs of her representation of Armenta, Respondent requested that Armenta send her all of Armenta's court materials and case file for her review. Upon receiving Respondent's letter, Armenta sent his entire case file to Respondent.

141. Respondent sent a letter, dated January 7, 2002, to Ms. Morones in which she confirmed an appointment set for February 8, 2002 and enclosed a representation agreement for Ms. Morones to bring to the meeting. In Respondent's letter to Ms. Morones, she also requested

that Ms. Morones call Respondent to reschedule the appointment if she could not pay Respondent \$750 prior to the February 8, 2002 appointment.

142. On February 8, 2002, Ms. Morones met with Respondent and paid her \$750. They both executed a representation agreement which stated that Ms. Morones had paid Respondent \$750 to evaluate Armenta's case.

143. Respondent sent a letter to Armenta, dated February 8, 2002, in which she advised him that she had reviewed his case file and would charge Ms. Morones \$1,250 to file a habeas petition in federal court on his behalf. Respondent informed Armenta that the filing deadline was April 2002 and that "[a]s soon as [she is] paid, [she] will begin working on [his] petition."

144. In February 2002, Ms. Morones paid Respondent \$1,250, and executed a representation agreement which stated that Ms. Morones paid Respondent \$1,250 to prepare and file a habeas corpus petition.

145. Respondent did not file a habeas corpus petition for Armenta, and did not promptly inform Armenta that she would not be filing a petition. Respondent maintains that she prepared a draft of the habeas petition, but due to a subsequent change in the law, Respondent did not file the petition as she believed that Armenta no longer had a valid legal basis for habeas relief. Respondent did not promptly withdraw from her representation of Armenta and did not promptly release the file to Armenta after reaching her conclusion.

146. Respondent disputes that any of the fees paid for Armenta's matter were unearned; however, Respondent did not inform Armenta of his right to resolve the dispute over whether or not a refund is due through fee arbitration.

Conclusion of Law

147. By not informing Armenta that she would not be filing a habeas corpus petition for him; by not promptly withdrawing from her representation of Armenta; and by not promptly releasing Armenta's file, Respondent failed to take reasonable steps to avoid reasonably foreseeable prejudice to the rights of a client, including giving due notice to the client, allowing time for employment of other counsel, and complying with rule 3-700(D), in wilful violation of Rules of Professional Conduct, rule 3-700(A)(2).

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was January 13, 2006.

DISMISSALS.

The parties respectfully request the Court to dismiss the following alleged violations in the interest of justice:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
03-H-05010	One	Business and Professions Code §6103.
03-O-02544	Thirteen	Business and Professions Code §6068(m).
03-O-02544	Fifteen	Rules of Professional Conduct, rule 3-700(D)(1). ¹
03-O-02544	Sixteen	Rules of Professional Conduct, rule 3-700(D)(2). ¹
03-O-03644	Eighteen	Rules of Professional Conduct, rule 3-110(A).
03-O-03644	Nineteen	Business and Professions Code §6068(m).
03-O-03644	Twenty-One	Rules of Professional Conduct, rule 3-700(D)(2).
03-O-03644	Twenty-Two	Rules of Professional Conduct, rule 3-700(D)(1). ¹
03-O-03716	Twenty-Seven	Rules of Professional Conduct, rule 3-700(D)(2). ¹
03-O-04297	Thirty	Business and Professions Code §6068(m).
03-O-04297	Thirty-Two	Rules of Professional Conduct, rule 3-700(D)(1). ¹
03-O-04297	Thirty-Three	Business and Professions Code §6106.
03-O-04297	Thirty-Five	Business and Professions Code §6106.

¹*In the Matter of Dahlz* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269, 280-281 (separate findings of rule 3-700(D)(1) or 3-700(D)(2) violations duplicative of rule 3-700(A)(2) violation).

03-O-04297	Thirty-Six	Business and Professions Code §6106.
03-O-04297	Thirty-Seven	Business and Professions Code §6068(i).
03-O-04676	Forty	Business and Professions Code §6068(i).
04-O-11767	One	Rules of Professional Conduct, rule 3-110(A).
04-O-11767	Two	Business and Professions Code §6106.
04-O-11767	Three	Business and Professions Code §6068(m).
04-O-11767	Four	Rules of Professional Conduct, rule 3-700(D)(1). ²
04-O-11767	Six	Rules of Professional Conduct, rule 3-700(D)(2).
04-O-14837	Two	Business and Professions Code §6103.
04-O-14837	Four	Business and Professions Code §6106.
04-O-15116	Two	Business and Professions Code §6068(m).
04-O-15116	Four	Rules of Professional Conduct, rule 3-700(D)(2).
04-O-15116	Five	Business and Professions Code §6068(i).
05-O-01733	Seven	Business and Professions Code §6068(m).
05-O-01733	Nine	Rules of Professional Conduct, rule 3-700(D)(2).
05-O-01733	Ten	Business and Professions Code §6106.
05-O-01733	Eleven	Business and Professions Code §6068(i).

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of November 21, 2005, the estimated prosecution costs in this matter are approximately \$ 15,429. 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

²*In the Matter of Dahlz, supra*, 4 Cal. State Bar Ct. Rptr. at pp. 280-281 (separate finding of rule 3-700(D)(1) violation duplicative of rule 3-700(A)(2) violation).

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.

Silva-Vidor v. State Bar (1989) 49 Cal.3d 1071.

The attorney's misconduct affected 14 clients. Most of the misconduct took place over a span of two years, while the attorney was working as a sole practitioner. In seven client matters, the attorney wilfully withdrew from employment without taking reasonable steps to avoid prejudice to her clients, including failure to notify them and to deliver all papers and property to which they were entitled. Also, the attorney failed to promptly refund a total of \$1,710 in unearned fees to six clients; failed to hold advance payments for costs and expenses for two clients in a client trust account; failed to account to one client; failed to promptly pay out client funds to two clients; committed acts of moral turpitude, dishonesty or corruption as to three clients; and practiced law for over three years while she was suspended for failing to pay membership fees to the State Bar.

The court imposed a one-year actual suspension, a five-year stayed suspension and a five-year probation on the attorney. While the attorney's misconduct demonstrated a common pattern of wilful misconduct, involving abandonment, misrepresentations, misappropriation of \$760, and other violations of the law, the court held that in some cases, personal problems may legitimately explain a period of inattention to an attorney's law practice and concluded that a two-year actual suspension was too harsh. Most of the attorney's misconduct was confined to a period in which she was experiencing severe financial and emotional problems. The court held that such conditions should constitute a significant mitigating factor. The court also found that the attorney had substantially improved her condition through counseling, fully cooperated with the State Bar, and indicated desire to make restitution to her former clients. The court further considered the relatively small amounts of unearned fees and funds misappropriated in reaching its decision.

AGGRAVATING CIRCUMSTANCES.

FACTS SUPPORTING AGGRAVATING CIRCUMSTANCES.

Multiple Acts

Respondent's misconduct involves violations of rules 1-110, 3-110(A), 3-700(D)(1), 3-700(D)(2), 3-700(A)(2), 4-100(A); and Business and Professions Code, sections 6068(i), 6068(m) and 6106.

ADDITIONAL AGGRAVATING CIRCUMSTANCES.

Respondent's misconduct in the Hobbs matter (case number 03-O-04297) is similar to her prior misconduct in case number 01-O-01353, in that her prior misconduct involved her failure to maintain advanced costs in a client trust account. (*Levin v. State Bar* (1989) 47 Cal.3d 1140, 1149-1150.)

MITIGATING CIRCUMSTANCES.

ADDITIONAL MITIGATING CIRCUMSTANCES.

Respondent has signed a declaration under penalty of perjury which includes, among other things, statements regarding her severe financial and emotional problems, as follows:

In 1992, Respondent's father was diagnosed with terminal cancer. In October 1993, Respondent's father passed away. After his death, Respondent experienced depression and Respondent's ex-husband became abusive towards her. Respondent tried to escape that abuse by burying herself in her law practice. Respondent also attended marriage counseling.

Beginning in 1994, Respondent started having financial problems. Respondent's ex-husband was not providing financial support. Money that Respondent would have used to pay taxes, was instead used for child care expenses, and loans were incurred for home repairs and remodeling. Respondent's cash flow was interrupted. The majority of Respondent's practice consisted of court-appointed receivables for her work in appellate matters. Prior to 1995, the State of California paid her for her work on a fairly predictable basis. In 1995, the State began issuing "IOU"-type warrants for some matters. Respondent was not paid on other matters for months while the State was experiencing a budget crisis. The delay and reduction in her income occurred at the same time that the Internal Revenue Service ("IRS") was aggressively pursuing her in order to collect her tax liabilities. Respondent incurred high-interest credit line debt to pay her taxes.

In 1996, a Chapter 11 bankruptcy trustee filed a \$60,000 claim against Respondent. The claim related to Respondent's handling of a client matter in 1992. Respondent represented the owner of a business that was in reorganization in a complex criminal case in federal court. She was paid \$60,000 in fees by the client. The client used tax withholdings that the client was supposed to forward to IRS on behalf of employees of her company. The trustee took the position that five years later, Respondent had to disgorge the fees.

Respondent consulted with a bankruptcy attorney who informed her that the only way to discharge the \$60,000 liability was to file a Chapter 7 bankruptcy petition. While the Chapter 7 case was pending and after it was discharged, Respondent was unable to obtain

large cash advance credit lines as she did in the past to pay her taxes, which were not discharged in bankruptcy.

In December 1996, Respondent's lawyers advised her to file a Chapter 13 bankruptcy petition, in order to schedule the taxes owed by her and her ex-husband to the IRS and Franchise Tax Board, and to stay penalties and interest. From December 1996 through October 2000, Respondent paid more than \$134,000 to the Chapter 11 trustee.

Since Respondent and her ex-husband did not have money to pay non-essential expenses, her ex-husband became more abusive. In June 1997, Respondent separated from her ex-husband and filed for dissolution of the marriage. Respondent obtained temporary restraining orders against her ex-husband.

Between June 1997 and September 1999, while the property division and child custody issues were pending, Respondent's legal bills amounted to \$27,000 approximately. Respondent paid the fees, but in the end, she had to represent herself because she could not afford an attorney and at the same time keep her Chapter 13 and other accounts current.

Respondent was granted legal and physical custody of her four sons. She was allowed to keep the family home because she assumed all of the community debt. The debt she agreed to pay exceeded the value of the assets she was awarded by \$80,000. Her ex-husband was ordered to pay \$1,860 per month in child support, but for the next five years, he only paid her \$360 a month. The \$1,500 difference was credited to his account as spousal support that she was ordered to pay him.

In July 1997, Respondent's ex-husband, without informing her, changed the billing address on accounts for their second and third mortgages. Respondent continued to make monthly payments from 1997 to 2000 without receiving the billing statements reflecting the payments or balances.

In 1999, Respondent took and passed the appellate specialist examination and became certified in that specialty in early 2000.

In November 2000, Respondent was required to finish a habeas corpus petition in a capital case. In November and December 2000, she had to turn down other cases to complete the petition. Respondent fell behind in her payments to the Chapter 13 trustee. Her co-counsel in the capital case then refused to pay her portion of the fees received from the Supreme Court.

From 2001 to 2003, Respondent's financial difficulties began to escalate. Her Chapter 13 bankruptcy was dismissed. As a result, over \$95,000 in previously stayed penalties and interest were re-imposed and added to her tax debt. Respondent hired an attorney to pursue an offer in compromise with the IRS, but her attorney did not complete the job.

In September 2001, Respondent received notice of a purported assignee of her third trust deed mortgage. Respondent was forced to make an unanticipated \$9,000 payment to the assignee after non-judicial foreclosure proceedings were commenced.

In March 2002, a flood in her home caused \$20,000 in damages to her home. Respondent maintained her office in her home and the flood cause problems with seeing clients there. Respondent's insurance company delayed paying her homeowner's claim, because she had recently been in foreclosure. Respondent used her own money for the

repairs. This expenses, coupled with the unanticipated \$9,000 payment to the assignee, led to a default in her first mortgage.

In July 2002, Respondent paid \$18,000 to a foreclosure trustee to bring that account current. The assignee immediately recorded another notice of default on her property, claiming an amount due that was three times more than the amount she believed could be due, and threatened to auction her home. By the end of 2002, Respondent had paid a total of \$27,000 to cure the defaults on her home loans.

Respondent planned to use the homeowners insurance money received in July 2002 to pay her third mortgage, but the money was placed in a "suspense account". The funds could only be released in installments to the contractor conducting the repairs to her home, even though she had already paid the contractor with her own funds. In late 2002, Respondent hired a contractor to repair other damage caused by the flood.

In February 2003, Respondent filed a Chapter 13 bankruptcy petition to save her home. Respondent ultimately lost her home in foreclosure proceedings. Respondent believes that the foreclosure was obtained through fraudulent means by the assignee. Her home was sold in February 2003, without proper notice to her. In May 2003, Respondent pursued an action in federal court alleging that she was the victim of foreclosure fraud. In July 2003, Respondent discovered that the assignment against her home was forged.

The client files that were at Respondent's home, at the time she was unexpectedly evicted, were either damaged or lost during her move.

In June 2003, Respondent lost custody of her three youngest sons. Respondent became more depressed. She attempted to take anti-depressant drugs in July 2003, but they made her sleep all the time and she could not get anything done. Since June 2003, Respondent has been involved in a constant conflict with her ex-husband over the custody of her three youngest sons.

In September 2003, the judge in the custody case ordered supervised visits between Respondent and her three youngest sons on the ground that there was no opposition to her ex-husband's request for a modification of the custody order. Respondent had an attorney representing her in the custody matter, but her attorney had not presented declarations and other evidence to refute her ex-husband's claims. Respondent believed

that the judge's order was unjustified since she still had full custody of her 14-year old son.

The same lawyer who represented Respondent in the custody case was the same attorney who represented her in the foreclosure fraud case. After September 2003, Respondent chose to represent herself in both matters which caused further stress to Respondent.

For most of October and November 2003, Respondent was preoccupied with her attempts to recuse the family law judge based on bias. Ultimately, Respondent was prevented from having any contact with her children for the last six months of 2003 and the first ten months of 2004. In May 2004, the judge recused himself from Respondent's case.

The separation from her children caused Respondent to drink to excess at various times. The stress caused Respondent to ignore communications received from the State Bar. Every time Respondent decided to step back and stop fighting in family court, some crisis would bring her back into the fray, and the crisis usually involved an allegation by her youngest son that his father was abusing him. Her youngest son, who was ten years old, began running away from his father's home.

In April 2004, a CT scan performed on Respondent revealed a neoplasm of the pancreas. Because Respondent's surgery was expected to cost over \$75,000, Respondent applied for Medi-Cal in May 2004. The application was lost, so Respondent reapplied in July 2004. The application was not approved until October 2004. While Respondent was waiting for Medi-Cal approval, she received unemployment benefits. Although she had a couple of job offers, the employers changed their minds when they learned she was about to undergo major surgery from which she was expected to be disabled for two months. In October 2004, Respondent successfully underwent surgery for removal of what was determined to be a low-grade malignancy that was cured by surgical excision. Respondent was discharged from the hospital on November 4, 2004. On November 9, 2004, Respondent returned to the hospital in excruciating pain and was discharged on November 11, 2004, after a CT scan showed no intestinal blockage. Respondent was readmitted through the emergency room on November 14, 2004, when it was determined that she had an intestinal blockage. Respondent underwent a second surgical procedure on November 16, 2004. Respondent remained in the hospital until November 22, 2004. On July 15, 2005, she had a third surgery and her recovery has been uneventful.

Until Respondent lost her home and then her children, she was able to manage her personal problems that she had experienced beginning with the illness and death of her father and including her marital problems, the financial stress that she experienced after 1994, and the dissolution of her marriage.

In retrospect, Respondent realizes that in 2003, she was caught in a vicious and accelerating cycle wherein her personal problems caused her to suffer from depression and the depression caused her to be less effective in dealing with her personal problems than she might otherwise have been, which in turn, exacerbated her depression. This

vicious cycle did not simply affect Respondent's performance in her personal cases, but also caused her to neglect a number of client cases, including the Ramos, Kelson and Brown matters. It also caused her to neglect the condition attached to her prior discipline that she attend State Bar Ethics School.

In the beginning, Respondent reasoned that if she did not spend all of her time fighting to keep her home, then she would not have an office. If she did not have an office, there would be nothing she could do for her clients anyway. After Respondent's custody case commenced, she felt as though she had dedicated her entire adult life to a justice system in which she wholeheartedly believed, only to find that the system was not able to help her when she needed it the most. Respondent started to question whether she wanted to continue to be a lawyer.

In 2004, Respondent tried to rebuild her practice, but the separation from her children was unbearable. She began drinking to excess to numb the pain, and only quit because of her health problems.

In May 2004, Respondent was preoccupied with having to again move. In addition to reliving the trauma of the eviction from her home in 2003, Respondent was subjected to more trauma and stress when she realized that she had an unlawful detainer judgment on her record which made it difficult for her to rent a residence.

The new judge in Respondent's family law case has permitted Respondent to have increased contact with her children. In October, November, and December 2004, Respondent was able to have all of her children visit her in her home for the first time since June 2003. The increased contact with her children did more for her morale than any of the anti-depressant drugs she tried in July 2003. She expected to make further progress in her family law case with the new judge, but in January 2005, a Mother's Day visit was denied.

Respondent is looking forward to finding a job so that she can support her children when they are eventually returned to her.

The parties stipulate that the personal problems, as described by Respondent, led to her misconduct and kept her from fully cooperating with the State Bar during the times stated.

Respondent acknowledges that she has not established that she no longer suffers from personal difficulties (see Standard 1.2(e)(iv)). However, Respondent has agreed to comply with probation conditions and other requirements as set forth in this stipulation to prove that she is sufficiently rehabilitated and fit to practice law again. The State Bar agrees that the public would be adequately protected as long as she complies with the probation conditions and other requirements as recommended in this stipulation.

OTHER FACTORS CONSIDERED.

While not a mitigating factor, the parties agree that the court may consider the following factors in connection with Respondent's commingling and writing checks against insufficient funds:

Respondent had sent a letter to Union Bank dated June 5, 2002 in which she (a) stated that she was no longer using the CTA as an attorney-client trust account; and (b) requested that forms be sent to her to effectuate the change of the nature of the account. Also, Respondent sent a letter to Union Bank dated July 12, 2002 with a copy of her June 5, 2002 letter. In Respondent's June 5, 2002 letter, she (a) reiterated that she was no longer using the CTA as a trust account; (b) stated that she had received her most recent bank statement which indicated that it was still identified as a trust account; and (c) asked for advice as to what she needed to do to effectuate the change of the nature of the account. Respondent sent a courtesy copy of her June 5, 2002 letter to the State Bar of California. Despite Respondent's correspondence to Union Bank, Respondent never officially changed the CTA to a personal account.

Respondent continued to use the CTA as her personal account to avoid higher return check fees that would have been imposed by the bank had she written checks from a non-trust account, but Respondent acknowledges that her knowing and repeated issuance of checks from the CTA against insufficient funds constitutes a violation of Business and Professions Code, section 6106.

In case number 03-O-03716, Respondent's failure to refund unearned fees in the Kelson matter was due in part to Respondent's belief that (1) she could not return fees to Kelson since Mr. Robinson paid the fees; and (2) that if she returned the fees to Robinson's estate, then the estate would not release the funds to Kelson for her use as legal fees.

FINANCIAL CONDITIONS, RESTITUTION.

Respondent agrees that at least \$15,000 should be refunded to Catalina Ramos from the funds she advanced to Respondent for Michael Ramos. Respondent shall pay restitution to Catalina Ramos in the principal sum of \$15,000, plus interest at 10% per annum from April 20, 2004, until paid in full. Respondent shall pay the restitution to Catalina Ramos and provide satisfactory proof of payment to the Office of Probation within one year of the effective date of the discipline imposed in this matter, unless Respondent obtains court approval for an extension of time to pay the restitution. Respondent shall notify Catalina Ramos of her right to arbitrate the dispute over the remaining balance of funds advanced to Respondent for Michael Ramos as set forth under the section "Other Conditions" below. If the Client Security Fund ("CSF") has reimbursed Catalina Ramos for all or any portion of the principal amount listed above, that amount shall be offset from the principal amount to be paid by Respondent and Respondent shall reimburse CSF for the amount it paid, plus applicable interest and costs.

Respondent agrees that at least \$6,000 should be refunded to the estate of Virgil Robinson on behalf of Brenda Kelson. Respondent shall pay restitution to the estate of Virgil Robinson on behalf of Brenda Kelson in the principal sum of \$6,000, plus interest at 10% per annum from May 1, 2003, until paid in full. Respondent shall pay the restitution to the estate of Virgil

Robinson and provide satisfactory proof of payment to the Office of Probation within one year of the effective date of the discipline imposed in this matter, unless Respondent obtains prior court approval for an extension of time to pay the restitution, or unless Respondent completes further legal services for Brenda Kelson at her request after execution of this Stipulation to satisfy the restitution sum owed. If Respondent completes further legal services for Brenda Kelson, Respondent shall provide within one year of the effective date of discipline imposed in this matter satisfactory proof to the Probation Unit, including confirmation from Brenda Kelson, of the value of the legal services performed, and that sum shall be offset from the restitution owed. Respondent shall notify the estate of Virgil Robinson of its right to arbitrate the dispute over the remaining balance of funds advanced to Respondent for Brenda Kelson as set forth under the section "Other Conditions" below. If the Client Security Fund ("CSF") has reimbursed Brenda Kelson or the estate of Virgil Robinson for all or any portion of the principal amount listed above, that amount shall be offset from the principal amount to be paid by Respondent and Respondent shall reimburse CSF for the amount it paid, plus applicable interest and costs.

Respondent agrees that at least \$5,500 should be refunded to Velma Brown. Respondent shall pay restitution to Velma Brown in the principal sum of \$5,500, plus interest at 10% per annum from April 14, 2002, until paid in full. Respondent shall pay the restitution to Velma Brown and provide satisfactory proof of payment to the Office of Probation within one year of the effective date of the discipline imposed in this matter, unless Respondent obtains prior court approval for an extension of time to pay the restitution, or unless Respondent provides, within one year of the effective date of discipline imposed in this matter, satisfactory proof to the Probation Unit that Velma Brown has agreed to accept a lesser sum as full payment of the restitution owed. Respondent shall notify Velma Brown of her right to arbitrate the dispute over the remaining balance of funds advanced to Respondent for Theodis Brown as set forth under the section "Other Conditions" below. If the Client Security Fund ("CSF") has reimbursed Velma Brown or Theodis Brown for all or any portion of the principal amount listed above, that amount shall be offset from the principal amount to be paid by Respondent and Respondent shall reimburse CSF for the amount it paid, plus applicable interest and costs.

OTHER CONDITIONS.

Respondent shall furnish to Catalina Ramos, Celia Varela, the estate of Virgil Robinson, Allen Roy Hobbs, Velma Brown, Leslie Szutenbach, Carolyn Cremeans, and George Armenta ("former clients"), a Notice of Client's Right to Arbitration ("fee arbitration notice"). Respondent shall furnish to the Office of Probation a copy of each fee arbitration notice sent with her first quarterly report. If any of the former clients elects not to proceed with fee arbitration, Respondent shall notify the Office of Probation of such election in her first quarterly report. If any of Respondent's former clients elect to proceed with fee arbitration within 30 days of his/her receipt of the fee arbitration notice, Respondent shall participate in the fee arbitration, and provide proof of completion of the fee arbitration with the next quarterly or final report due following completion of the arbitration. If an award is issued against Respondent and in favor of any of the former clients, and the award becomes final and binding upon the parties, Respondent

shall provide to the Office of Probation proof of satisfaction of that award with the next quarterly report or final report due following satisfaction of that award.

SUSPENSION NOTIFICATION REQUIREMENTS.

Respondent shall maintain complete records of the notifications and the certified or registered mailings sent pursuant to California Rules of Court, rule 955, and shall provide such records upon the request of the Office of the Chief Trial Counsel.

LAW OFFICE MANAGEMENT CONDITIONS.

1. On or before the termination of Respondent's actual suspension, Respondent must develop a law office management /organization plan, which must be approved by the Office of Probation. This plan must include procedures to (1) send periodic reports to clients; (2) document telephone messages received and sent; (3) maintain files; (4) meet deadlines; (5) withdraw as attorney, whether of record or not, when clients cannot be contacted or located; (6) train and supervise support personnel; and (7) address any subject area or deficiency that caused or contributed to Respondent's misconduct in the current proceeding.

2. Within one year of the effective date of the discipline herein, Respondent must submit to the Office of Probation satisfactory evidence of completion of no less than 12 hours of Minimum Continuing Legal Education (MCLE) approved courses, 6 of which shall be in the area of law office management and/or general legal ethics. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for attending these courses (Rule 3201, Rules of Procedure of the State Bar.)

MEDICAL CONDITIONS.

Respondent must consult with a duly licensed psychiatrist, psychologist, or clinical social worker at Respondent's own expense and must furnish satisfactory evidence to the Office of Probation with her first quarterly report, and with each quarterly or final report due thereafter, that she is in compliance with all recommendations of the psychiatrist, psychologist, or clinical social worker. Treatment, if any is recommended, must continue for the period of probation or until the psychiatrist, psychologist, or clinical social worker determines that treatment is no longer necessary, whichever occurs first. If the psychiatrist, psychologist, or clinical social worker determines that treatment is not or no longer necessary, Respondent must furnish to the Office of Probation a written statement, by affidavit or under penalty of perjury, from the psychiatrist, psychologist, or clinical social worker with the next quarterly or final report due, in support of the termination of treatment.

STATE BAR ETHICS SCHOOL.


Respondent has agreed to attend State Bar Ethics School on February 9, 2006. Respondent must provide to the Office of Probation with her first quarterly report satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.


(Do not write above this line.)

In the Matter of ELIZABETH A. BARRANCO	Case number(s): 02-O-13363-RAP, et al.
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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.

2-6-06  ELIZABETH A. GUITTARD
Date Respondent's signature Print name

2/8/06  DIANE J. MEYERS
Date Deputy Trial Counsel's signature Print name

(Do not write above this line.)

In the Matter of ELIZABETH A. BARRANCO	Case number(s): 02-0-13363-RAP, et al.
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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.
- All Hearing dates are vacated.

Consistent with the parties' agreement, and in the interests of justice, paragraph 11 on page 1 is stricken.

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.)

Date

2/9/06

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 February 9, 2006, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION
AND ORDER APPROVING**

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

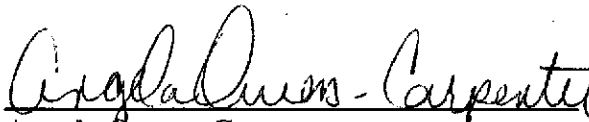
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**ELIZABETH A BARRANCO
P O BOX 40419
SAN DIEGO CA 92164 0419**

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

DIANE MEYERS, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on February 9, 2006.



Angela Owens-Carpenter
Case Administrator
State Bar Court