

Counsel for the State Bar THE STATE BAR OF CALIFORNIA OFFICE OF THE CHIEF TRIAL COUNSEL ENFORCEMENT ELI D. MORGENSTERN, No. 190560 1149 S. Hill Street, 10th Fl. Los Angeles, CA 90015-2299 Telephone: (213) 765-1334	Case number(s) 03-0-00770-RAH 03-0-00775 03-0-01585 03-0-02334 03-0-04336  Inv. Opn. Case No. 04-0-10350	(for Court's use)  <div style="text-align: center;"><b>FILED</b></div> <div style="text-align: center;">JUN 10 2004</div> <div style="text-align: center;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</div>
Counsel for Respondent  Zakeya Leona Brookins In Pro Per 1001 Burnt Hickory Road NW #424 Marietta, GA 30064 (678) 581-9167	<div style="font-size: 2em; font-weight: bold;">PUBLIC MATTER</div>	
In the Matter of  Zakeya Leona Brookins  Bar # 212900 A Member of the State Bar of California (Respondent)	Submitted to <input checked="" type="checkbox"/> assigned judge <input type="checkbox"/> settlement judge  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  ACTUAL SUSPENSION  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	



**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted May 25, 2001 (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 17 pages.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."
- (6) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
  - until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
  - costs to be paid in equal amounts prior to February 1 for the following membership years:  
costs shall be added to and become a part of the membership fees for the years 2005,  
 (hardship, special circumstances or other good cause per rule 284, Rules of Procedure) 2006, 2007,  
 costs waived in part as set forth under "Partial Waiver of Costs" 2008, and  
 costs entirely waived 2009.

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

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

(1)  Prior record of discipline [see standard 1.2(f)]

(a)  State Bar Court case # of prior case \_\_\_\_\_

(b)  date prior discipline effective \_\_\_\_\_

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

(d)  degree of prior discipline \_\_\_\_\_

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

- (2)  Dishonesty: Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3)  Trust Violation: Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4)  Harm: Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5)  Indifference: Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6)  Lack of Cooperation: Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7)  Multiple/Pattern of Misconduct: Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8)  No aggravating circumstances are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standard 1.2(e).] Facts supporting mitigating circumstances are required.

- (1)  No Prior Discipline: Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2)  No Harm: Respondent did not harm the client or person who was the object of the misconduct.
- (3)  Candor/Cooperation: Respondent displayed spontaneous candor and cooperation to the extent of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4)  Remorse: Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5)  Restitution: Respondent paid \$ \_\_\_\_\_ on \_\_\_\_\_ in restitution to \_\_\_\_\_ without the threat or force of disciplinary, civil or criminal proceedings.
- (6)  Delay: These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7)  Good Faith: Respondent acted in good faith.
- (8)  Emotional/Physical Difficulties: At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9)  Severe Financial Stress: At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10)  Family Problems: At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11)  Good Character: Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12)  Rehabilitation: Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13)  No mitigating circumstances are involved.

Additional mitigating circumstances:

D. Discipline

1. Stayed Suspension.

A. Respondent shall be suspended from the practice of law for a period of one (1) year

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

B. The above-referenced suspension shall be stayed.

2. Probation.

Respondent shall be placed on probation for a period of three (3) years which shall commence upon the effective date of the Supreme Court order herein. (See rule 953, California Rules of Court.)

3. Actual Suspension.

A. Respondent shall be actually suspended from the practice of law in the State of California for a period of ninety (90) days

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

E. Additional Conditions of Probation:

- (1)  If Respondent is actually suspended for two years or more, he/she shall remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2)  During the probation period, Respondent shall comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3)  Within ten (10) days of any change, Respondent shall report to the Membership Records Office of the State Bar and to the Probation Unit, all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4)  Respondent shall submit written quarterly reports to the Probation Unit on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, respondent shall state whether respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all

conditions of probation during the preceding calendar quarter. If the first report would cover less than 30 days, that report shall be submitted on the next 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.

- (5)  Respondent shall be assigned a probation monitor. Respondent shall promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, respondent shall furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Probation Unit. Respondent shall cooperate fully with the probation monitor.
- (6)  Subject to assertion of applicable privileges, Respondent shall answer fully, promptly and truthfully any inquiries of the Probation Unit of the Office of the Chief Trial Counsel and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (7)  Within one (1) year of the effective date of the discipline herein, respondent shall provide to the Probation Unit satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended.
- (8)  Respondent shall comply with all conditions of probation imposed in the underlying criminal matter and shall so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Probation Unit.
- (9)  The following conditions are attached hereto and incorporated:
- |   |  |
|---|--|
| <input type="checkbox"/> Substance Abuse Conditions | <input checked="" type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions         | <input type="checkbox"/> Financial Conditions                        |
- (10)  Other conditions negotiated by the parties: See Page 15, STATE BAR ETHICS SCHOOL EXCLUSION.
- Multistate Professional Responsibility Examination: Respondent shall provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Probation Unit of the Office of the Chief Trial Counsel during the period of actual suspension or within one year, whichever period is longer. Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 951(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.
- No MPRE recommended.
- Rule 955, California Rules of Court: Respondent shall comply with the provisions of subdivisions (a) and (c) of rule 955, California Rules of Court, within 30 and 40 days, respectively, from the effective date of the Supreme Court order herein.
- Conditional Rule 955, California Rules of Court: If Respondent remains actually suspended for 90 days or more, he/she shall comply with the provisions of subdivisions (a) and (c) of rule 955, California Rules of Court, within 120 and 130 days, respectively, from the effective date of the Supreme Court order herein.
- Credit for Interim Suspension [conviction referral cases only]: Respondent shall be credited for the period of his/her interim suspension toward the stipulated period of actual suspension.

In the Matter of  
ZAKEYA LEONA BROOKINS  
A Member of the State Bar

Case Number(s):  
03-0-00770, 03-0-00775,  
03-0-01585, 03-0-02334,  
03-0-04336 Inv. Opn. 04-0-10350

Law Office Management Conditions

- a.  Within \_\_\_ days/ \_\_\_ months/ \_\_\_ years of the effective date of the discipline herein, Respondent shall develop a law office management/ organization plan, which must be approved by respondent's probation monitor, or, if no monitor is assigned, by the Probation Unit. This plan must include procedures to send periodic reports to clients; the documentation of telephone messages received and sent; file maintenance; the meeting of deadlines; the establishment of procedures to withdraw as attorney, whether of record or not, when clients cannot be contacted or located; and, for the training and supervision of support personnel.
- b.  Within ~~xxxxx~~ days/ ~~xxxxx~~ months 2 years of the effective date of the discipline herein, respondent shall submit to the Probation Unit satisfactory evidence of completion of no less than 5 hours of MCLE approved courses in law office management, attorney client relations and/ or general legal ethics. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and respondent shall not receive MCLE credit for attending these courses (Rule 3201, Rules of Procedure of the State Bar.) The courses must be participatory.
- c.  Within 30 days of the effective date of the discipline, respondent shall join the Law Practice Management and Technology Section of the State Bar of California and pay the dues and costs of enrollment for \_\_\_ year(s). Respondent shall furnish satisfactory evidence of membership in the section to the Probation Unit of the Office of Chief Trial Counsel in the first report required.

**ATTACHMENT TO**  
**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF:       Zakeya Leona Brookins

CASE NUMBER(S):        03-O-00770-RAH, 03-O-00775, 03-O-01585,  
                                  03-O-02334, and 03-O-04336

INV OPN. CASE NO. 04-O-10350

**FACTS AND CONCLUSIONS OF LAW.**

Respondent admits that the following facts are true and that she is culpable of violations of the specified statutes and Rules of Professional Conduct.

**Case No. 03-O-00770**

**Facts**

1. On or about August 22, 2002, Siyal met with Respondent's employee Rigo Vazquez ("Vazquez") and employed Respondent to represent her in a dental malpractice claim on a contingency fee basis.

2. On or about August 23, 2002, Siyal provided Vasquez with a money order in the amount of \$196 made payable to "LA Superior Court" as filing fees for a civil complaint.

3. In or about November 2002, Siyal spoke with Respondent for the first time. Although Respondent was aware that she had been employed by Siyal, only Vazquez had communicated with Siyal prior to November 2002. Respondent assured Siyal that Respondent was looking into Siyal's case and would contact Siyal after the review. Respondent never made such contact.

4. Respondent did not file a lawsuit on Siyal's behalf and did not take any other action in relation to Siyal's claim.

5. Although no complaint was filed, Respondent has not returned the \$196 money order to Siyal.

6. At no time did Respondent inform Siyal that a complaint had not been filed within the two-year statute of limitations applicable to the case or advise Siyal regarding her legal options

in light of Respondent's failure to file the complaint.

### **Legal Conclusions**

By failing to file a complaint for Siyal or otherwise preserve Siyal's claim, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in wilful violation of rule 3-110(A) of the Rules of Professional Conduct.

By failing to respond to Siyal, Respondent failed to respond to Siyal's reasonable status inquiry, in wilful violation of Business and Professions Code section 6068(m).

### **Case No. 03-O-00775**

### **Facts**

7. On or about July 23, 2002, Michael Murdock ("Murdock") met with Respondent's employee Rigo Vasquez ("Vasquez") and employed Respondent to represent him in a medical malpractice claim on a contingency basis. The retainer agreement stated that Respondent would file a complaint within the week. Respondent did not know that she had been retained by Murdock until in or about November 2002.

8. Between in or about August 2002 and in or about October 2002, Murdock telephoned Respondent at her office several times and each time left messages on Respondent's answering machine requesting that Respondent return his call. Neither Respondent nor Vasquez returned Murdock's telephone calls or otherwise communicated with Murdock.

9. In or about November 2002, Murdock telephoned Respondent at her office and received an outgoing answering machine message that Vasquez was no longer employed by Respondent. Murdock left a message requesting that Respondent return his call. Respondent returned Murdock's telephone call on or about December 2, 2002, at which time she informed Murdock that she was withdrawing from employment. .

10. Respondent did not file a complaint on Murdock's behalf and did not take any other action in relation to Murdock's claim.

11. Respondent permitted her employee Vasquez to retain clients on her behalf. Commencing in or about July 2002, Respondent was rarely in the office to supervise Vasquez, thereby giving Vasquez the responsibility of maintaining the office on a day to day basis.

## **Legal Conclusions**

By failing to file a complaint for Murdock, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in wilful violation of rule 3-110(A) of the Rules of Professional Conduct.

By failing to respond to Murdock, Respondent failed to Murdock's reasonable status inquiries, in wilful violation of Business and Professions Code section 6068(m).

By failing to supervise Vazquez, Respondent intentionally, recklessly or repeatedly failed to perform legal services with competence in wilful violation of rule 3-110(A) of the Rules of Professional Conduct.

## **Case No. 03-O-01585**

### **Facts**

12. In or about March 2002, Annie Covington met with Respondent to discuss Covington's pending criminal case and an identity theft problem.

13. On or about March 6, 2002, a bench warrant was issued in relation to Covington.

14. On or about May 28, 2002, Covington hired Respondent in relation to the pending criminal case, specifically to have the bench warrant recalled, and to help Covington resolve her identity theft problem, including changing her Social Security number. Covington paid Respondent \$4,000.

15. Respondent failed to substitute into Covington's criminal matter and failed to take any steps to set aside the bench warrant. Respondent failed to appear at the December 16, 2002, December 18, 2002, December 24, 2002, January 22, 2003, January 24, 2003, March 3, 2003, March 20, 2003, and March 26, 2003 hearings.

16. Respondent took no constructive steps to resolve Covington's identity theft problems and did not, in fact, resolve Covington's identity theft problems.

17. By taking no action on behalf of Covington, Respondent effectively withdrew from representation of Covington. At no time did Respondent inform Covington that Respondent was withdrawing from employment.

18. In or about December 2002, Covington met with Respondent and requested a full refund of the \$4,000. Respondent agreed to such refund, but has failed to return any of the \$4,000 to Covington.

19. Respondent did not earn any portion of the fees advanced by Covington.

### **Legal Conclusions**

By failing to represent Covington in her criminal matter and by failing to resolve Covington's identity theft problem, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in wilful violation of rule 3-110(A) of the Rules of Professional Conduct.

By not informing Covington of her withdrawal from employment and of her change of office location, Respondent failed upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to her client, in wilful violation of rule 3-700(A)(2) of the Rules of Professional Conduct.

By failing to refund to Covington the \$4,000 advanced fees, which Respondent had not earned, Respondent wilfully failed to refund unearned fees in wilful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

### **Case No. 03-O-02334**

### **Facts**

20. On or about July 2, 2002, Yebhacky Baviscky ("Baviscky") met with Respondent's employee Rigo Vazquez ("Vazquez") and employed Respondent to represent him in a claim against the federal government related to his arrest for possession of marijuana plants on or about September 15, 2000. Respondent was hired on a contingency basis.

21. Respondent did not know that Baviscky had employed her until in or about January 2003. Until then, Baviscky had met with and spoken exclusively with Vazquez.

22. In or about February 2003, Respondent returned Baviscky's file to him and informed him that she would not represent him in his claim against the federal government.

23. Respondent permitted her employee Vazquez to retain clients on her behalf, and subsequently meet with clients. Commencing in or about July 2002, Respondent was rarely in the office to supervise Vasquez, thereby giving Vazquez the responsibility of maintaining the office on a day to day basis.

## **Legal Conclusion**

By failing to supervise Vazquez, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of rule 3-110(A) of the Rules of Professional Conduct.

## **Case No. 03-O-04336**

### **Facts**

24. On or about April 30, 2002, Lady Cage Barile (“Barile”) met with Respondent in relation to a petition for dissolution filed by Barile’s husband.

25. On or about May 16, 2002, Barile met with Vazquez and hired Respondent to represent Barile in her marital dissolution. Barile paid Vazquez \$2,000 to hire Respondent.

26. On or about May 22, 2002, Respondent filed an answer to the petition for dissolution on Barile’s behalf. Thereafter, Respondent failed to perform any services of value to Barile.

27. Between approximately July 2002 and October 2002, Barile paid Respondent an additional \$665.

28. On or about November 14, 2002, Barile mailed Respondent a letter requesting that Respondent refund the attorney’s fees and turn over Barile’s file. The letter was placed in a sealed envelope correctly addressed to Respondent at her office address. The letter was properly mailed by first class mail, postage prepaid, by depositing for collection by the United State Postal Service. The United States Postal Service did not return the letter as undeliverable or for any other reason. Respondent failed to respond to Barile’s letter.

29. On or about November 14, 2002, Barile hired new counsel, Olufemi Banjo (“Banjo”) to represent her in her marriage dissolution. Thereafter, in 2003, Banjo obtained Respondent’s signature on the substitution of attorney form.

30. In or about March 2003, Respondent filed a small claims action against Respondent. On or about June 23, 2003, a judgment in the amount of \$3,000 was awarded to Barile against Respondent. Respondent has failed to return any portion of the fees advanced by Barile.

31. At no time did Respondent release Barile’s file to Barile, or her subsequent counsel, or communicate with Barile, or her subsequent counsel, regarding how Barile, or her subsequent counsel, could obtain the file.

## Legal Conclusions

By failing to perform any services for Barile after the response to the petition for dissolution had been filed, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in wilful violation of rule 3-110(A) of the Rules of Professional Conduct.

By failing to refund to Barile advanced fees which Respondent had not earned, Respondent wilfully failed to refund unearned fees in wilful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

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

### INV OPN Case No. 04-O-10350

32. On or about December 29, 2000, a first amended complaint for medical malpractice and wrongful death was filed on behalf of Morris Domino ("Domino") in Los Angeles Superior Court in a matter entitled *Morris Domino, et al vs. UCLA Medical Center, Regents of the University of California*, et al, case no. BC 242 457 ("the wrongful death matter").

33. On or about April 26, 2002, Respondent filed a substitution of attorney in the wrongful death matter and became counsel of record on behalf Domino. Domino paid Respondent approximately \$2100 in fees for her services.

34. On or about September 4, 2002, an employee of the law firm representing the defendants in the wrongful death matter spoke with Rigo Vazquez ("Vazquez"), Respondent's employee, and informed him that the defendants intended to go ex parte before the Court to obtain a priority hearing date so that the defendants' motion for summary judgment could be heard before the trial date in or about November 2002. A letter giving notice was also faxed to Respondent on or about September 4, 2002.

35. On or about September 6, 2002, the defendants in the wrongful death matter filed a notice of motion and motion for summary judgment, and an ex parte application to obtain a preferential hearing date for the motion for summary judgment. Said pleadings were properly served upon Respondent. Respondent did not oppose the defendants' ex parte application for an order shortening time of service for the hearing on the summary judgment motion.

36. On or about September 6, 2002, the Court granted the defendants' ex parte motion and the hearing on the motion for summary judgment was scheduled for October 23, 2002. Respondent was properly served with the Court's Order shortening time.

37. Respondent did not inform Domino of the defendants' motion for summary judgment or the Court's Order. Respondent did not file an opposition to the defendants' motion for summary judgment.

38. On October 23, 2002, the Court granted the defendants' motion for summary judgment, and the Order was filed by the Court. Respondent did not appear at the hearing on the motion and did not inform Domino of the Court's Order granting the defendants' motion for summary judgment.

39. In or about December 2002, Domino reviewed the court file of the wrongful death matter and discovered that the defendants' motion for summary judgment and the order granting the motion. On or about December 2, 2002, sent a letter to Respondent's office address, via certified mail, requesting an explanation. Respondent did not respond to the letter.

### **Legal Conclusions**

By failing to oppose the defendants' motion for summary judgment, and by failing to appear at the hearing on the motion, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in wilful violation of rule 3-110(A) of the Rules of Professional Conduct.

By failing to inform Domino of the defendants' motion for summary judgment, the hearing on the motion, and the Court's Order granting the motion, Respondent failed to keep a client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services in wilful violation of Business and Professions Code section 6068(m).

### **PENDING PROCEEDINGS.**

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

**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-O-00770	2	Rules of Professional Conduct, rule 3-700(A)(2)
03-O-00770	3	Business and Professions Code, section 6068(m)
03-O-00770	5	Rule 3-110(A), Rules of Professional Conduct
03-O-00775	7	Rules of Professional Conduct, rule 3-700(A)(2)
03-O-00775	8	Business and Professions Code, section 6068(m)
03-O-01585	13	Business and Professions Code, section 6068(m)
03-O-02334	15	Rule 3-110(A), Rules of Professional Conduct
03-O-02334	16	Rule 3-700(A)(2), Rules of Professional Conduct
03-O-02334	17	Business and Professions Code, section 6068(m)
03-O-04336	20	Rules of Professional Conduct, rule 3-700(A)(2)
03-O-04336	21	Business and Professions Code, section 6068(m)
03-O-04336	22	Business and Professions Code, section 6068(m)
03-O-04336	25	Rules of Professional Conduct, rule 3-110(A)

**COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of May 10, 2004, the estimated prosecution costs in this matter are approximately \$5, 144.40. Respondent acknowledges that this figure is an estimate only and that it does not include State Bar Court costs which will be included in any final cost assessment. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

**AUTHORITIES SUPPORTING DISCIPLINE.**

In *Matthew v. State Bar* (1989) 49 Cal.3d 784, the attorney failed to perform competently and failed to return unearned fees in two (2) separate client matters. In a third client matter, the attorney was employed by a client to prepare a living trust, which he failed to complete until four

years after retention. The State Bar ordered that the attorney be actually suspended for sixty (60) days as a condition of probation.

In *Lester v. State Bar* (1976) 17 Cal.3d 547, the was attorney was found to have wilfully failed to perform legal services in four (4) matters in which he was retained, failed to communicate and failed to refund fees until forced to do so. He showed no mitigation. The attorney received six months actual suspension.

In *In the Matter of Bruce E. Nelson* (Rev. Dept. 1990) 1 Cal. State Bar Ct. Rptr. 178, the attorney set up a law practice with a non-lawyer and divided fees with the non-lawyer. The attorney's entire law practice over a six month period came from improper solicitation acts of the non-lawyer. The Review Department found extensive mitigation and recommended a six month actual suspension.

### **AGGRAVATING CIRCUMSTANCES.**

The aggravating circumstances defined by the following Standards For Attorney Sanctions For Professional Misconduct, Title IV of the Rules of Procedure ("Standards") are present:

Standards 1.2(b)(ii), and 1.2(b)(iv).

### **STATE BAR ETHICS SCHOOL EXCLUSION**

Respondent resides in the state of Georgia and is unable to attend State Bar Ethics School. As an alternative to State Bar Ethics School, the parties agree that Respondent will complete six (6) hours of MCLE-approved courses in General Legal Ethics. The classes must be participatory. This requirement is separate and in addition to the five (5) hours required by the Law Office Management Conditions form at pate 6 of this stipulation.

### **OTHER FACTORS IN CONSIDERATION**

Respondent employed Rigo Vazquez as a non-attorney staff member of her office. In or about November 2002, Respondent discovered that Vazquez was taking on clients without her knowledge and consent and thereafter failed to inform her of the new matters.

Once Respondent discovered this, she immediately terminated Vazquez; reviewed the cases which he brought in; evaluated the merits of these matters; and, when appropriate, informed the clients that she could not continue representing them as their cases lacked merit.

In or about January 2003, Respondent filed a criminal complaint against Vasquez with the City of Los Angeles Police Department. Charges were filed by the Los Angeles District Attorney, and a Preliminary Hearing is scheduled to be conducted in or about May 2004.

Respondent's actions were an attempt to take the appropriate steps to protect her client's interests as soon as she discovered Vazquez's misconduct.

#### **FINANCIAL CONDITIONS, RESTITUTION.**

Within thirty (30) months of the effective date of the discipline in these matters, Respondent must make restitution to Tina Siyal in the principal amount of \$196, and furnish satisfactory evidence of restitution to the Probation Unit. Respondent shall include in each quarterly report required herein satisfactory evidence of all restitution payments made by her during that reporting period.

Within thirty (30) months of the effective date of discipline in these matters, Respondent must make restitution to Annie Covington (Complaining Witness in Case No. 03-O-01585) or the Client Security Fund if it has paid, in the principal amount of \$ 4,000 plus interest at the rate of 10% per annum from May 28, 2002, and furnish satisfactory evidence of restitution to the Probation Unit. Respondent shall include in each quarterly report required herein satisfactory evidence of all restitution payments made by her during that reporting period.

Within thirty (30) months of the effective date of discipline in these matters, Respondent must make restitution to Lage Cage Barile or the Client Security Fund if it has paid, in the principal amount of \$2, 665 plus interest at the rate of 10% per annum from October 17, 2002, and furnish satisfactory evidence of restitution to the Probation Unit. Respondent shall include in each quarterly report required herein satisfactory evidence of all restitution payments made by her during that reporting period.

Within thirty (30) months of the effective date of discipline in these matters, Respondent must make restitution to Morris Domino (Complaining Witness in INV OPN Case No. 04-O-10350 or the Client Security Fund if it has paid, in the principal amount of \$2, 100 plus interest at the rate of 10% per annum from August 9, 2002, and furnish satisfactory evidence of restitution to the Probation Unit. Respondent shall include in each quarterly report required herein satisfactory evidence of all restitution payments made by her during that reporting period.

5/25/04

Date

*Zakeya Leona Brookins*  
Respondent's signature

ZAKEYA LEONA BROOKINS  
print name

Date

6/03/04

Date

Respondent's Counsel's signature

*El D. Morgenstern*  
Deputy Trial Counsel's signature

print name

ELI D. MORGENSTERN  
print name

### ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reprovai, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- The stipulated facts and disposition are APPROVED AND THE REPROVAL IMPOSED.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.

All references to "Probation Unit" or "Probation Unit of the Office of the Chief Trial Counsel" shall be deemed deleted and replaced with "Office of Probation."

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.) Otherwise the stipulation shall be effective 15 days after service of this order.

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

Date

6/7/04

Judge of the State Bar Court

*Richard A. Honn*  
**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. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on June 10, 2004, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION  
AND ORDER APPROVING, filed June 10, 2004**

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

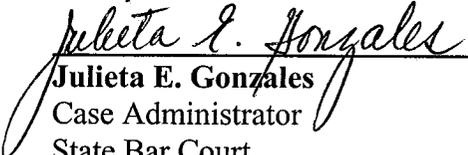
by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**ZAKEYA L BROOKINS ATTORNEY AT LAW  
1001 BURNT HICKORY RD NW #424  
MARIETTA, GA 30064**

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

**Eli M. Morgenstern, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **June 10, 2004**.

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