

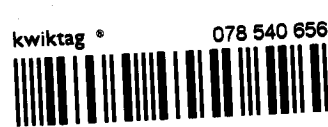
(Do not write above this line.)

State Bar Court of California		
Hearing Department <input type="checkbox"/> Los Angeles <input checked="" type="checkbox"/> San Francisco		
PROGRAM FOR RESPONDENTS WITH SUBSTANCE ABUSE AND MENTAL HEALTH ISSUES		
Counsel for the State Bar Cydney Batchelor Deputy Trial Counsel 180 Howard St., 7th Fl. San Francisco, CA 94105 (415) 538-2204 Bar # 114637	Case Number(s) 04-0-15901-PEN 04-0-15902 05-0-00710 05-0-05355 CONFIDENTIAL FILED JAN 06 2010 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO	(for Court use) PUBLIC MATTER LODGED JUN 28 2006 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
<input type="checkbox"/> Counsel for Respondent <input checked="" type="checkbox"/> In Pro Per Ava D. Landers 607 G St Davis, CA 95616 Tele: 530/759-7027 Bar # 171859	Submitted to Program Judge STIPULATION RE FACTS AND CONCLUSIONS OF LAW <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of Ava D. Landers Bar # 171859 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 November 22, 1994
(date)
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, if Respondent is not accepted into the Lawyer Assistance Program, this stipulation will be rejected and will not be binding on Respondent or the State Bar.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated, except for Probation Revocation Proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation and order consists of 12 pages.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
See attached
- (5) Conclusions of law, drawn from and specifically referring to the facts, are also included under "Conclusions of Law."
See attached



(Do not write above this line.)

- (6) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§ 6086.10 & 6140.7 and will pay timely any disciplinary costs imposed in this proceeding.

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

- (1) Prior Record of Discipline (see standard 1.2(f))
- (a) State Bar Court Case # of prior case _____
- (b) Date prior discipline effective _____
- (c) Rules of Professional Conduct/State Bar Action violations _____
- (d) Degree of prior discipline _____
- (e) If Respondent has two or more incidents of prior discipline, use space provided below or under "Prior Discipline" (above)
- (2) Dishonesty: Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) Trust violation: Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) ~~XXXX~~ Harm: Respondent's misconduct harmed significantly a client, the public or the administration of justice. See attached
- (5) Indifference: Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) Lack of Cooperation: Respondent displayed a lack of candor and cooperation to the victims a his/her misconduct or the State Bar during disciplinary investigation or proceedings.
- (7) ~~XXXX~~ Multiple/Pattern of Misconduct: Respondent's current misconduct evidences multiple acts of wrong doing or demonstrates a pattern of misconduct. See attached
- (8) No aggravating circumstances are involved.

Additional aggravating circumstances:

None

(Do not write above this line.)

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

- (1) **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation to the ~~extent of his/her misconduct~~ before the State Bar during disciplinary investigation and proceedings.
See attached
- (4) **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat of force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) **Good Faith:** Respondent acted in good faith.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish were directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drugs or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
See attached
- (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.
See attached
- (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 attached

ATTACHMENT TO
STIPULATION RE FACTS AND CONCLUSIONS OF LAW

IN THE MATTER OF: **AVA D. LANDERS**

CASE NUMBERS: **04-O-15901; 04-O-15902;**
 05-O-00710; 05-O-05355

FACTS AND CONCLUSIONS OF LAW.

Case Number 04-O-15901 (Theresa Gilliland):

Facts: On April 12, 2004, Theresa Gilliland ("Ms. Gilliland") first met with respondent and her paralegal, Gina Landers, in connection with a bankruptcy petition. Ms. Gilliland wished to file a bankruptcy petition that required prompt attention because her ex-husband had just filed for bankruptcy, seeking to unilaterally discharge two large auto loans for which he had agreed to be responsible in the couple's Marital Settlement Agreement and Judgment. Ms. Gilliland sought to avoid collection action by her ex-husband's creditors, and to protect her own assets, which included real property and her residence. Ms. Gilliland paid respondent \$959.00 in advanced fees, including \$209.00 for an advanced filing fee. Respondent failed to deposit the advanced costs into a client trust account. Respondent informed Ms. Gilliland that the process would take only a few months. Upon respondent's request, Ms. Gilliland provided respondent with original documents which she was informed would be returned with a copy of the fee agreement. From April 12, 2004 to July 27, 2004, respondent failed to file a bankruptcy petition on behalf of Gilliland. From April 12, 2004, to June 22, 2004, Ms. Gilliland left several telephone messages for respondent requesting an update as to status of her bankruptcy petition. However, respondent failed to respond to Gilliland's telephone calls.

In a letter sent by facsimile to Ms. Gilliland on June 23, 2004, respondent acknowledged her failure to return Ms. Gilliland's telephone calls, and requested that Gilliland provide additional information by facsimile. Respondent further represented that upon receipt of the information, respondent or her paralegal would enter the additional information into the petition and send it out for immediate filing. On June 25, 2004, Ms. Gilliland provided the requested information in Respondent's June 23, 2004 letter to respondent by facsimile and asked respondent to call if any further clarification was needed. Ms. Gilliland did not hear from Respondent again from June 25, 2004 to August 29, 2004.

On July 27, 2004, the bankruptcy court issued a discharge in Gilliland's ex-husband's Chapter 7 bankruptcy. Gilliland lost her opportunity to have the bankruptcy court consider both petitions seeking to discharge many of the same debts, and became individually liable to the to the community debts that her husband had discharged. Shortly thereafter, the creditors began calling Gilliland. Gilliland began calling and leaving messages for Respondent, however, she received no response from Respondent until on or about August 30, 2004. On August 30, 2004, Respondent sent Gilliland a letter enclosing a draft of the Chapter 7 bankruptcy petition via facsimile. In her August 30, 2004 letter, Respondent requested two additional items in order to file the petition, including Gilliland's total income for 2002 and a copy of the current appraisal of her residence after the 2003 refinancing. Respondent advised Gilliland that the information could be inserted into the petition after Gilliland signed the petition, but before the petition was filed with the court.

Following August 30, 2004, Ms. Gilliland was unable to reach respondent directly. All subsequent telephone conversations between Ms. Gilliland and the office were with the respondent's administrative assistant - Tori Trujillo ("Ms. Trujillo"). On August 31, 2004, Ms. Gilliland returned the signed Chapter 7 bankruptcy petition with the requested documents, advising that the 2003 appraisal for her Audi II was actually \$1000.00 less than the 2002 appraisal. Ms. Gilliland stated that she would contact the title company to obtain a copy of the 2003 appraisal and send it on to respondent.

From August 31, 2004 through October 2004, Ms. Gilliland again attempted to reach respondent by telephone but her messages were unreturned. On November 16, 2004, Ms. Gilliland received a telephone call from Ms. Trujillo advising her that she needed to return the Chapter 7 petition with her original signatures to the office so that her petition could be filed with the Court. On the same day, Ms. Gilliland sent a letter by facsimile to respondent demanding to know why it had taken respondent three months to inform her that the office was waiting for her to return the original documents despite her numerous telephone requests seeking to determine what else was needed. Thereafter, Ms. Gilliland received a telephone call from "Mona" at respondent's office informing her that a courier will be sent to retrieve the signed documents. However, by November 21, 2004, respondent had not dispatched a courier to retrieve the signed petition from Gilliland.

Finally, on November 22, 2004, Ms. Gilliland mailed the documents back to respondent. Between November 22, 2004 and December 6, 2004, Ms. Gilliland left several telephone messages for respondent regarding the status of her petition. Respondent did not return Ms. Gilliland's telephone calls. On December 7, 2004, Ms. Gilliland sent a letter via facsimile to respondent to determine whether the petition had been filed. To date, respondent did not respond to the December 7, 2004 letter.

On December 22, 2004, Ms. Gilliland terminated Respondent's representation and hired another attorney to represent her. On December 22, 2004, the new attorney called respondent's office and spoke with Ms. Trujillo, who said the petition had been filed several days ago. However, the file stamped copy of the petition reflects that it was actually filed on December 22, 2004, the day of the call. On December 22, 2004, the new attorney also requested a refund of \$750 (\$959.00 minus \$209 filing fee) to Ms. Gilliland. In January 2005, after the intervention of the State Bar, respondent refunded \$750.00 to Ms. Gilliland.

Conclusions of Law: By repeatedly failing to file Ms. Gilliland's bankruptcy petition for eight months when she knew time was of the essence, and by recklessly failing to properly supervise her administrative staff, respondent recklessly failed to perform legal services competently, in violation of Rule of Professional Conduct 3-110(A). By willfully failing to reply to Ms. Gilliland's telephone status inquiries on numerous occasions, respondent failed to respond promptly to reasonable status inquiries of a client, in violation of Business and Professions Code section 6068(m). By willfully failing to deposit the \$209.00 paid for advanced costs into a client trust account, respondent failed to deposit client funds in a trust account, in violation of Rule of Professional Conduct 4-100(A).

Case Number 04-O-15902 (Shahbaz Sharif):

Facts: On June 15, 2004, respondent met with Shahbaz Sharif ("Mr. Sharif") to discuss obtaining an annulment petition in Sharif's ongoing marital dissolution matter. On July 29, 2004, Mr. Sharif met with respondent again and signed a fee agreement and paid \$750.00 in advanced fees against a total fee of \$1500.00. Mr. Sharif substituted out his previous attorney, by signing a substitution designating respondent as his new attorney of record. On August 4, 2004, the former attorney mailed his signed substitution of counsel form to respondent. However, respondent never filed the substitution of attorney with the court.

In early August 2004, respondent provided Mr. Sharif with a blank Income, Expense and Property Declaration form. On August 10, 2004, Mr. Sharif signed and mailed his Income and Expense Declaration ("IED") to Respondent. However, respondent never filed the completed IED with the court. On September 15, 2004, Mr. Sharif paid respondent the remaining \$750.00 of advanced attorney fees, and provided court documents related to the annulment. Thereafter, Mr. Sharif waited for respondent to provide the forthcoming court date. However, from September 15, 2004 through January 12, 2005, respondent did not communicate with Mr. Sharif. In fact, respondent provided no services of any value to Mr. Sharif at any time. On January 13, 2005, Mr. Sharif

mailed a letter to respondent terminating her representation and requesting a full refund. On January 24, 2005, after the intervention of the State Bar, respondent refunded the full \$1500.00 to Mr. Sharif and returned his client file.

Conclusions of Law: By repeatedly failing to file the substitution of counsel and by failing to file the IED on behalf of Sharif, respondent recklessly failed to perform legal services with competence, in violation of Rule of Professional Conduct 3-110(A). By willfully failing to communicate with Mr. Sharif for four months, respondent failed to communicate adequately with his client, in violation of Business and Professions Code section 6068(m).

Case Number 05-O-00710 (Jenny Miller Woltz):

Facts: In September 2003, Jenny Miller Woltz ("Ms. Woltz") employed respondent to represent her in a modification of child support matter, and paid her \$1500.00 in advanced attorney fees as a flat fee. At the time she was employed, respondent was aware that there was a court hearing set for October 21, 2003. On October 7, 2003, respondent filed the substitution of attorney. A few days later, respondent agreed to the request of opposing counsel, to continue the hearing scheduled for October 21, 2003. However, respondent and opposing counsel agreed to conduct their meet and confer on October 21, 2003. At the meet and confer, respondent and opposing counsel agreed that opposing counsel would prepare a judgment for submission to the court and that respondent would not seek attorneys fees.

From October 21, 2003 to March 24, 2004, Ms. Woltz repeatedly left telephone messages to inquire about the status of the judgment. Respondent did not reply to any of those messages. On March 25, 2004, Ms. Woltz went to respondent's office in person in order to request the status of the judgment. Respondent informed Ms. Woltz that opposing counsel had not typed the formal agreement and that respondent's office would do so for no additional charge. On June 10, 2004, respondent sent opposing counsel a letter enclosing the redrafted judgment. On June 25, 2004, opposing counsel told respondent on the telephone that an additional disclosure declaration needed to be executed and filed with the judgment. Between July 2004 to October 2004, opposing counsel left several messages for respondent about the declaration; respondent failed to return the calls. On August 2, 2004, Ms. Woltz sent a letter to respondent inquiring about the status of her case; respondent failed to reply. Finally, in December 2004, Ms. Woltz called the Superior Court and confirmed that the judgment had not yet been filed. Respondent never filed the judgment, nor did she refund any of the unearned attorney fees to Ms. Woltz, nor did she account to her for the advanced fees.

Conclusions of Law: By repeatedly failing to prepare the re-draft of the judgment in a timely manner, failing to provide the declaration to opposing counsel, and failing to communicate with opposing counsel to resolve the case, respondent repeatedly and recklessly failed to perform legal services with competence, in violation of violation of Rule of Professional Conduct 3-110(A). By willfully failing to reply to the telephone repeated inquiries of Ms. Woltz regarding the status of her case, respondent failed to respond promptly to reasonable status inquiries of a client, in violation of Business and Professions Code section 6068(m).

Case No. 05-O-05355 (Christine Haldeman)

Facts: In September 2003, respondent was employed by Christine Haldeman to represent her in a guardianship case regarding Ms. Haldeman's daughter. Respondent provided legal services to Ms. Haldeman on several different motions. At the conclusion of one of the motions, Ms. Haldeman requested respondent to have the matter added back on the calendar for another motion. Respondent, and respondent's staff, informed Ms. Haldeman that she could not represent her any further. However, respondent failed to withdraw as counsel of record from the case. In addition, respondent failed to return the client file to Ms. Haldeman promptly upon her request, until after the intervention of the State Bar.

Conclusions of Law: By willfully failing to withdraw properly from the guardianship court case, respondent withdrew from representation without taking reasonable steps to avoid reasonably foreseeable prejudice to the rights of the client, in violation of Rule of Professional Conduct 3-700(A)(2). By willfully failing to return the client file promptly to Ms. Haldeman upon her request, respondent failed to promptly release to the client, at the request of the client, all client papers, in violation of Rule of Professional Conduct 3-700(D)(1).

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(6), was April 6, 2006.

AGGRAVATING CIRCUMSTANCES.

Facts Supporting Aggravating Circumstances:

Multiple Acts of Misconduct: The misconduct stipulated to herein involved multiple acts

of misconduct to multiple clients.

Significant Harm: Respondent's failure to file Ms. Gilliland's bankruptcy matter in a timely matter resulted in her client being hounded by creditors and becoming personally responsible for numerous debts which might have been discharged if the petition had been filed in a timely manner. Respondent's inaction in the Woltz matter has resulted in Ms. Woltz matter not being resolved.

MITIGATING CIRCUMSTANCES.

Facts Supporting Mitigating Circumstances.

Candor and cooperation. Respondent has been completely candid and cooperative with the State Bar during its investigation and resolution of these cases.

Marital and emotional difficulties: During the time of the misconduct, respondent's marriage was disintegrating, and she separated from her husband twice, and then divorced.

Financial difficulties: As a result of her marital problems, respondent suffered extreme financial problems during the period of the misconduct, including payment of extensive attorney fees, assumption of large community debt, and refinancing of her home.

Additional Mitigating Circumstances.

No prior discipline: Although the stipulated misconduct is serious, it is worth noting that Respondent has had no prior record of discipline since being admitted in 1994.

Refund of attorney fees: Although she did not do so until after the intervention of the State Bar, Respondent voluntarily refunded all advanced attorney fees to Ms. Gilliland and Mr. Sharif. In addition, as a further demonstration of her remorse, respondent has agreed to refund all advanced attorney fees to Ms. Woltz.

Participation in Lawyer's Assistance Program. On November 21, 2005, respondent contacted the State Bar Lawyer Assistance Program ("LAP") and completed the intake process. On December 5, 2005, respondent signed a pre-enrollment assessment agreement with LAP. Respondent is in the process of being evaluated for acceptance into LAP on a long term basis.

RESTITUTION.

Respondent waives any objection to immediate payment by the State Bar Client Security Fund upon a claim or claims for the principal amounts of restitution set forth below:

In accordance with the timetable set forth in the State Bar Court alternative discipline program contract to be executed between the State Bar Court and Respondent on the captioned case, Respondent must make restitution as follows:

Jenny Miller Woltz, or the Client Security Fund if it has paid on her behalf, in the principal amount of \$1500.00, plus interest at the rate of 10% per annum from September 13, 2003, until paid in full and furnish satisfactory evidence of restitution to the State Bar Court.

(Do not write above this line.)

In the Matter of AVA D. LANDERS	Case number(s): 04-0-15901-PEM, et al.
--	---

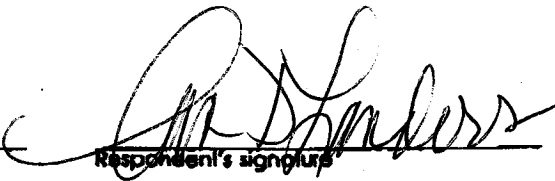

SIGNATURE OF THE PARTIES

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

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

If the Respondent is not accepted into the Program or does not sign the Program contract, the Stipulation will be rejected and will not be binding on Respondent or the State Bar.

If the Respondent is accepted into the Program, upon Respondent's successful completion of or termination from the Program, this Stipulation will be filed and the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court Statement Re: Discipline shall be imposed or recommended to the Supreme Court.

4-5-06 Date	 Respondent's signature	AVA D. LANDERS Print name
_____ Date	_____ Respondent's Counsel's signature	_____ Print name
4/9/06 Date	 Counsel's signature	CYDNEY BATCHELOR Print name

(Do not write above this line.)

In the Matter of AVA D. LANDERS	Case number(s): 04-0-15901-PEM, et al.
--	---

ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- The stipulation as to facts and conclusions of law is APPROVED.
- The stipulation as to facts and conclusions of law is APPROVED AS MODIFIED as set forth below.
- All court dates in the Hearing Department are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation; or 3) Respondent is not accepted for participation in the Program or does not sign the Program Contract. (See rule 135(b) and 802(b), Rules of Procedure.)

Date

6/26/06

Judge of the State Bar Court

John M. Remke