


<p>Counsel for the State Bar                  JAYNE KIM                  OFFICE OF PROBATION                  1149 S. Hill Street                  Los Angeles, CA 90015                  (213) 765-1714</p>	<p>Case number(s)                   04-PM-12235                   kwiktag® 035 116 319  </p>	<p>(for Court's use)   <b>PUBLIC MATTER</b>   <b>FILED</b> <i>eg</i>                   JUL 15 2004                   STATE BAR COURT CLERK'S OFFICE                  SAN FRANCISCO</p>
<p>Counsel for Respondent                   PHYLLIS N. VOISENAT-RAFTER                  IN PRO PER                  1330 Broadway, Suite 1035                  Oakland, CA 94612</p>	<p>Submitted to <input checked="" type="checkbox"/> assigned judge <input type="checkbox"/> settlement judge                   STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND                  ORDER APPROVING                   PROBATION VIOLATION—"PM" PROCEEDING   <input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of                  PHYLLIS N. VOISENAT-RAFTER                   Bar # 159095                  A Member of the State Bar of California                  (Respondent)</p>		

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted 06/08/92 (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 7 pages.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."
- (6) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
  - costs added to membership fee for calendar year following effective date of discipline (no actual suspension)
  - 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 (actual suspension)
  - costs to be paid in equal amounts prior to February 1 for the following membership years:  
2005, 2006, 2007, 2008  
 (hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
  - costs waived in part as set forth under "Partial Waiver of Costs"
  - costs entirely waived

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

B. Aggravating Circumstances [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 S106196 (97-0-17916 et al.)

(b)  date prior discipline effective August 17, 2002

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

rules 3-700(A)(2), 3-700(D)(2), 4-100(A)

(d)  degree of prior discipline Sixty days and until restitution, stayed suspension, five years probation.

(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 wrong doing 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 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.
- (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)  **No mitigating circumstances are involved.**

Additional mitigating circumstances:

D. Discipline (choose only one):

- (1)  Probation Extended: Respondent's probation in \_\_\_\_\_ shall be extended for \_\_\_\_\_.  
Supreme Court case # State Bar Court case #
- (2)  Probation Revoked; Probation Reinstated; Actual Suspension: Respondent's probation is revoked and reinstated on the same terms and conditions as previously imposed in \_\_\_\_\_  
Supreme Court case # State Bar Court case #  
The terms of probation shall remain the same as in the prior order except as indicated below. In addition, Respondent shall be actually suspended from the practice of law for \_\_\_\_\_.
- (3)  Probation Revoked; Probation Reinstated; No Actual Suspension: Respondent's probation is revoked and reinstated on the same terms and conditions previously imposed in S106196 (97-0-17916 et al.)  
Supreme Court case # State Bar Court case #  
The terms of probation shall remain the same as in the prior order, except as indicated below.
- (4)  Probation Revoked; Probation not Reinstated; Actual Suspension: Respondent's probation is revoked. Respondent shall be suspended from the practice of law for \_\_\_\_\_.

E. In addition to conditions previously imposed by the Supreme Court in its prior order, the following new conditions are being recommend by this stipulation:

- (1)  During the probation period, Respondent shall comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2)  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.
- (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 will cover less than 30 days, that report shall be submitted on the next quarter date, and cover the extended period.

In addition to all quartely reports, a final report, containing the same information, is due no earlier than 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 these 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 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 required to be filed with the Probation Unit.
- (9)  The following conditions are attached hereto and incorporated:
- |   |   |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions         | <input type="checkbox"/> Financial Conditions             |
- (10)  Other conditions negotiated by the parties:

**Probation Conditions Deleted or Modified:**

Respondent shall make restitution under the same terms and conditions as originally ordered in S106196 (97-O-17916 et al.) - except restitution shall be made on a quarterly basis in lieu of monthly payments.

Respondent shall pay \$450.00 per quarter to David McKim and \$450.00 per quarter to Suzanne Decker or Client Security Fund, if applicable, and provide satisfactory proof to the Office of Probation with each quarterly report.

- 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.

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF:       Phyllis Voisenat-Rafter

CASE NUMBER(S):        04-PM-12235

**FACTS AND CONCLUSIONS OF LAW.**

1.       Respondent, Phyllis Voisenat-Rafter ("Respondent") was admitted to the practice of law in the State of California on June 8, 1992, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.

2.       By order dated July 18, 2002, the Supreme Court imposed discipline on Respondent in case no. S106196 (State Bar Court case nos. 97-O-17916 et al.). The Supreme Court suspended Respondent for 60 days and until she makes restitution to David McKim ("McKim"), or to the Client Security Fund ("CSF") if appropriate, in the amount of \$7,500.00, and to Suzanne Decker ("Decker"), or CSF if appropriate, in the amount of \$7,500.00, and furnishes satisfactory proof thereof to the Office of Probation, but stayed the execution of the suspension on the condition that Respondent comply with all terms of probation.

3.       As terms of probation, Respondent was ordered to do the following: (1) submit written quarterly reports on each January 10, April 10, July 10, and October 10, of the period of probation; (2) submit quarterly certificates from a certified public accountant or other financial professional or Respondent regarding the possession of client funds or, in the alternative, a statement under penalty of perjury that Respondent did not possess any client funds during the reporting period; (3) make minimum monthly restitution payments in the amount of \$150.00, to McKim and to provide satisfactory proof of such payments with each quarterly report; and (4) make minimum monthly restitution payments in the amount of \$150.00, to Decker and to provide satisfactory proof of such payments with each quarterly report

4.       Respondent failed to do the following: (1) submit written quarterly reports due on January 10, 2004, and April 10, 2004; (2) submit quarterly certificates due on January 10, 2004, and April 10, 2004, from a certified public accountant or other financial professional or Respondent regarding the possession of client funds or, in the alternative, a statement under penalty of perjury that Respondent did not possess any client funds during the reporting period; (3) submit proof of restitution payments to McKim for the months of November 2003 through March 2004; and (4) submit proof of restitution payments to Decker for the months of November 2003 through March 2004.

5.       In June 2004, after the Office of Probation filed case no. 04-PM-12235, Respondent filed delinquent reports for January 10<sup>th</sup> and April 10<sup>th</sup>, 2004. Respondent also provided proof of restitution payments to McKim and Decker.

**CONCLUSIONS OF LAW:**

6.       Based on the aforementioned, Respondent has failed to comply with the terms of her probation, in violation of Business and Professions Code section 6068(k).

7/2/04  
Date

*Phillis Voisenat-Rafter*  
Respondent's signature

PHILLIS VOISENAT-RAFTER  
print name

Date

Respondent's Counsel's signature

print name

7-7-04  
Date

*Jayne Kim*  
Deputy Trial Counsel's signature  
Supervising Attorney  
Office of Probation

JAYNE KIM  
print name

ORDER

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

- The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 135(b), Rules of Procedure.) The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 953(a), California Rules of Court.)

July 14, 2004  
Date

*Pat McElroy*  
Judge of the State Bar Court

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**DECLARATION OF SERVICE BY FIRST CLASS MAIL**

**CASE NUMBER: 04-PM-12235**

I, the undersigned, over the age of eighteen (18) years, whose business address and place of employment is the State Bar of California, 1149 South Hill Street, Los Angeles, California 90015, declare that I am not a party to the within action; that I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service; that in the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day; that I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit; and that in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of Los Angeles, on the date shown below, a true copy of the within

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

in a sealed envelope placed for collection and mailing as first class mail, at Los Angeles, on the date shown below, addressed to:


**PHYLLIS N. VOISENAT-RAFTER  
1330 BROADWAY, #1035  
OAKLAND, CA 94612**

in an inter-office mail facility regularly maintained by the State Bar of California addressed to:

**GORDON GRENIER, Enforcement, Los Angeles**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Los Angeles, California, on the date shown below.

DATED: 07/07/04

SIGNED:   
Maricruz Farfan  
Declarant



**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 San Francisco, on July 15, 2004, 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:

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

**PHYLLIS VOISENAT  
1330 BROADWAY #1035  
OAKLAND CA 94612**

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

**JAYNE KIM, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **July 15, 2004**.



**Laurette Cramer**  
Case Administrator  
State Bar Court