

State Bar Court of California
Hearing Department
San Francisco

Counsel For The State Bar Robin Brune Deputy Trial Counsel Deputy Trial Counsel 180 Howard Street San Francisco, California 94105 (415) 538-2218 Bar # 149481	Case Number (s) 05-O-04649-PEM; 05-O-04948-PEM	(for Court's use) PUBLIC MATTER FILED <i>LS</i> FEB 23 2007 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
Counsel For Respondent Jerome Fishkin Fishkin & Slatter 1111 Civic Drive Suite 215 Walnut Creek, California 94596 (925) 944-5600 Bar # 47798 In the Matter Of: Leonie Davis Bar # 224575 A Member of the State Bar of California (Respondent)	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION ☐ PREVIOUS STIPULATION REJECTED	

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 **January 28, 2003**.
- (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 consists of **17** pages, not including the order.
- (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.
- (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: **2008, 2009, 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
 - (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.
- (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. **See attachment.**
- (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.

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. **See attachment.**
- (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 must be suspended from the practice of law 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:

(b) ☒ The above-referenced suspension is stayed.

(2) ☒ **Probation:**

Respondent must be placed on probation for a period of **two years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

(3) ☒ **Actual Suspension:**

(a) ☒ Respondent must be actually suspended from the practice of law in the State of California for a period of **sixty 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 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.
- (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.
- ☐ 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:
- | | |
|---|---|
| ☐ Substance Abuse Conditions | ☐ Law Office Management Conditions |
| ☐ Medical Conditions | ☒ 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 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
- ☐ No MPRE recommended. Reason:
- (2) ☐ **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, 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 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and

(Do not write above this line.)

- (3) ☐ **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, 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 Financial Conditions, attached.**

In the Matter of
Leonie Davis, No. 224575

Case number(s):
05-O-04649-PEM; 05-O-04948-PEM

A Member of the State Bar

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 in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From
Teresa Carter (aka Shaw)	\$3500	December, 2005

- ☒ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than **the last day of probation**. A balloon payment at the end of probation may be warranted.

b. Installment 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
Teresa Carter (aka Shaw)	\$100.00	quarterly

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:
- 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";

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.

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: LEONIE DAVIS

CASE NUMBER(S): 05-O-04649-PEM; 05-O-04948-PEM

FACTS AND CONCLUSIONS OF LAW.

Case no. 05-O-04649 (Van Cor Matter)

On November 29, 2004, Christopher Van Cor ("Van Cor") met and paid respondent \$4,000 to represent him in his child custody matter entitled, *Christopher Van Cor v. Karen Burke*, Sacramento County Superior Court, case no. 04FL01710. Respondent did not prepare or execute a retainer agreement. On the same day, respondent had Van Cor sign a Substitution of Attorney form dated "11/ /04."

On June 20, 2005, Van Cor personally delivered a letter to respondent's office requesting that respondent contact the opposing party's attorney to discuss the choosing of the name of the child and the return of the original Mercy Folsom birth certificate. Respondent did not respond to Van Cor's June 20, 2005 letter. On June 28, 2005, Van Cor personally delivered another letter to respondent's office requesting the same assistance as stated in his May 20, 2005 letter with additional issues to be addressed with opposing counsel. On August 4, 2005, still having not heard from respondent, Van Cor placed a letter dated August 2, 2005, in respondent's office mail box. In his August 2, 2005 letter, Van Cor stated the following, in part:

I physically went to your office multiple times and attempted to contact you via office/cell phone (cell doesn't accept messages) since I dropped off the first packet on June 20, 2005 ... Currently I am being threaten with court action about a haircut I gave my daughter.

I HAVE SREIOUS [SIC] ISSUES AT THIS TIME AND MAY NEED TO RETURN TO COURT. I NEED TO KNOW IF YOU ARE STILL MY ATTORNEY!!! [Upper case type in original.]

Van Cor requested a response from respondent by Sunday, August 7, 2005.

On August 16, 2005, having not heard from respondent, Van Cor placed another letter, enclosing his August 2, 2005 letter, in respondent's office mail box requesting a written response from respondent within the next five-calendar days. On or about September 8, 2005, having not heard from respondent, Van Cor went to respondent's office at 90 Blue Ravine Road, Suite 282, in Folsom, California. At the main receptionist desk, Van Cor discovered for the first time from the receptionist that respondent no longer had an office at said address. The receptionist informed Van Cor that respondent's new address was P.O. Box 4742, El Dorado Hills, California 95762. Van Cor then called respondent's telephone and discovered that respondent's telephone had been disconnected and was no longer in service.

At no time prior to on or about September 8, 2005, did respondent inform Van Cor that she had moved her office and disconnected her office telephone line. Respondent did not inform her client of a new address or telephone number.

On September 15, 2005, Van Cor sent a letter to the opposing party's attorney, Robert B. Roth, informing Roth that he was no longer in contact with respondent. Van Cor requested Roth to contact him directly.

From June 20, 2005, through September 17, 2005, without any communication with or correspondence from respondent, Van Cor became increasingly concerned about the potential of the opposing party requesting any Order to Show Cause, without his knowledge, in the contentious custody matter that may negatively impact his employment as a fireman.

On September 17, 2005, Van Cor received a letter from respondent stating, in part, the following:

Due to an overwhelming case load and other reasons, I had to withdraw from most of my cases. I apologize for any inconvenience this may cause, but it is necessary at this time. Attached please find your copy of the Notice of Change of Address, Proof of Service by Mail, and endorsed Substitution of Attorney.

The Notice of Change of Address ("Notice") enclosed in respondent's September 17, 2005 letter stated that the address change was effective as of August 16, 2005. The Notice was executed by respondent on August 26, 2005. A proof of service was not attached to the Notice.

At no time prior to September 16, 2005, did respondent inform Van Cor of her change of address effective as of August 16, 2005.

The Substitution of Attorney and Proof of Service enclosed in respondent's September 17, 2005 letter was filed on August 3, 2005, placing Van Cor in pro per status.

Prior to August 3, 2005 through September 16, 2005, respondent did not inform Van Cor that she intended to or did substitute out of Van Cor's case and placing Van Cor in pro per status.

On September 23, 2005, Roth sent a letter to Van Cor informing him of the following, in part:

My last correspondence from her was an envelope hand addressed to me, from her office, on August 8th but which contained nothing inside. I sent her a letter on August 12, 2005, to her Folsom office address. I just received that letter back with a notation that Ms. Davis had a new address. The address is as follows: ...

Due to the fact that you are represented by Leonie Davis, I cannot discuss the case with you, ..

On August 3, 2005, respondent filed a Substitution of Attorney form in *Van Cor* showing that Van Cor and respondent had consented to the substitution of attorney in compliance with section 284(1) of the Code of Civil Procedure¹ and executed said document on August 3, 2005.

In truth and in fact, respondent altered the date on the Substitution of Attorney form to show "8-03-05" when the Substitution was originally dated "11/ /04" and signed by Van Cor on November 29, 2004.

In truth and in fact, at no time did respondent obtain Van Cor's consent to substitute out of the case.

¹ Section 284 of the Code of Civil Procedure provides, as follows:

The attorney in an action or special proceeding may be changed at any time before or after judgment of final determination, as follows:

1. Upon the consent of both client and attorney, filed with the clerk, or entered upon the minutes;
2. Upon the order of the court, upon the application of either client or attorney, after notice from one to the other.

Conclusions of Law.

1. By moving her office without informing her client and by disconnecting her office telephone line without providing Van Cor with any alternative ways to contact her, Respondent constructively terminated her employment with Van Cor on or about June 20, 2005. Respondent did not inform Van Cor of her intent to withdraw from representation or take any other steps to avoid reasonably foreseeable prejudice to Van Cor. By failing to give Van Cor timely notice of her termination of employment with Van Cor, respondent improperly withdrew from employment with a client, in wilful violation of Rule 3-700(A)(2) of the Rules of Professional Conduct.

2. By altering the true date on which the Substitution of Attorney form was signed by Van Cor, and by filing the document with the court, respondent, in presenting a matter to a tribunal, failed to employ such means only as are consistent with the truth, in wilful violation of Rule 5-200 of the Rules of Professional Conduct.

3. By failing to respond to Van Cor's letters, by failing to inform Van Cor of her change of address, by failing to inform Van Cor of her filing of the substitution of counsel, and by failing to inform that Van Cor was in pro per status as of August 3, 2005, respondent wilfully failed to respond to client inquiries and failed to inform her client 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).

Case no. 05-O-4948 (Carter Matter)

On July 26, 2004, Teresa Carter Shaw ("Carter") paid respondent \$3,500 to represent her in her dissolution of marriage entitled, *In the Marriage of Shaw*, Sacramento County Superior Court, case number 04FL04673. Respondent prepared and executed a retainer agreement. On July 28, 2004, respondent filed a Response on behalf of Carter. On March 25, 2005, a Marital Settlement Agreement ("MSA") was signed by Carter. Thereafter, respondent no longer provided any services of value to Carter.

Following March 25, 2005 through in or around August 2005, respondent did not inform Carter of the status of her case nor did respondent return any of Carter's telephone calls regarding the status of her case.

In April 2005, Carlson attempted to file the MSA but the court clerk rejected the filing since respondent had not filed on behalf of Carter the necessary financial disclosures. Carter did not know and respondent did not inform Carter of the clerk's rejection of the MSA. After March 25, 2005, respondent constructively terminated her representation of Carter. Respondent did not

inform Carter of her intent to withdraw from representation or take any other steps to avoid reasonably foreseeable prejudice to Carter.

On August 17, 2005, Carter sent a letter to respondent by certified mail, return receipt requested, requesting respondent to provide following: the status of her divorce; the date paperwork was filed; the date the final decree is expected; and a full accounting of the \$3,500 retainer. To date, respondent has not responded to Carter's August 17, 2005 letter.

In November 2005, not having any contact with or participation by respondent, Carlson — in the interest of his client to conclude the dissolution — had Capital Paralegal Services prepare the Declaration Regarding Service of Declaration of Disclosure And Income And Expense Declaration. On November 22, 2005, Carter signed said document and Capital Paralegal Services filed it.

On December 15, 2005, respondent sent a letter to Carter requesting Carter to sign and date a Substitution of Attorney form. The letter was sent to the wrong address and was not received by Carter until April 12, 2006.

On April 17, 2006, Carter sent a letter to respondent stating, in part, that she will not sign the Substitution of Attorney form

On December 30, 2005, Carlson prepared and filed the necessary court documents to complete Carter's dissolution.

Due to respondent's abandonment, Carter had no one to defend her concerns in the dissolution and caused her dissolution to take approximately fifteen months to complete.

To date, respondent had not provided an accounting of the \$3,500 to Carter. To date, respondent has not refunded any portion of the unearned fees.

Conclusions of Law.

1. By failing to give Carter any notice of her termination of employment on or about with Carter, respondent improperly withdrew from employment with a client, in wilful violation of Rules of Professional Conduct, rule 3-700(A)(2).

2. By failing to provide an accounting as requested by Carter's August 17, 2005 letter, respondent failed to render appropriate accounts to Carter regarding all funds and properties of Carter coming into respondent's possession, respondent wilfully violated Rules of Professional Conduct, rule 4-100(B)(3).

3. By not refunding any portion of the unearned fees, respondent willfully failed to refund promptly unearned fees. In wilful violation of Rules of Professional Conduct, rule 3-700(D)(2).

4. By not informing Carter of the status of her case after March 2005 and by failing to respond to Carter's letters or telephone calls, respondent willfully failed to respond promptly to reasonable status inquiries of a client and 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.(7), was February 1, 2007.

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>
05-O-4649	Two	B&P 6106

VARIANCE BETWEEN THE NOTICE OF DISCIPLINARY CHARGES AND THE STIPULATION

The parties waive any variance between the basis for this Stipulation and any charge(s). As to any charge(s) not yet filed in any matter covered by this Stipulation, the parties waive the filing of formal charge(s), any answer thereto, and any other formal procedures.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of January 31, 2007, the estimated prosecution costs in this matter are approximately \$4,373.00. 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.

Calvert v. State Bar (1991) 54 Cal. 3d. 765;

In the Matter of Johnston (1997) 3 Cal State Bar Ct. Rptr. 585;

Wells v. State Bar (1984) 36 Cal. 3d. 197; and

Stuart v. State Bar (1985) 40 Cal. 3d. 838.

AGGRAVATING CIRCUMSTANCES.

Standard 1.2 (iv). Harm to the client.

PRIOR DISCIPLINE.

Respondent has no prior discipline.

FACTS SUPPORTING AGGRAVATING CIRCUMSTANCES.

Standard 1.2(iv) Harm. In the Van Cor matter, the client was without counsel for over one month due to the delay in receiving respondent's notice of withdrawal. While there were no court proceedings during that time, the client had several unresolved disputes regarding visitation and other matters related to his custody order, and he was unable to reach respondent. In the Carter matter, the client had to rely on opposing counsel to complete the dissolution and suffered a significant delay in the proceedings.

MITIGATING CIRCUMSTANCES.

Standard 1.2(e)(iv) extreme emotional difficulties or physical disabilities

FACTS SUPPORTING MITIGATING CIRCUMSTANCES.

Respondent provided a letter dated January 19, 2007 from psychologist Dr. Philip Clar to confirm that she suffered significant impairment of her cognitive functioning, concentration, and stamina in 2005 which confirms her inability to maintain her legal practice at that time. Dr Clar indicates that respondent has showed improvement somewhat as of January 2007.

ADDITIONAL MITIGATING CIRCUMSTANCES.

California Code of Civil Procedure Section 285.1 allows for notice of withdrawal in family law cases² by filling notice with the court and serving the client, any time after a final judgment is obtained. No signature of the client is required.

STATE BAR ETHICS SCHOOL.

Because respondent has agreed to attend State Bar Ethics School as part of this stipulation, respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School.

FINANCIAL CONDITIONS, RESTITUTION.

Within one year from the effective date of discipline in this matter, respondent must make restitution to Teresa Carter (aka Shaw) or the Client Security Fund if it has paid, in the principal amount of \$3,500 plus interest at the rate of 10% per annum from December, 2005 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 him or her during that reporting period.

² CCP Section 285.1 specifies this procedure is available in cases of dissolution of marriage, legal separation, void or voidable marriage, or for the support, custody, or maintenance of minor children. This case involved paternity and child support.

(Do not write above this line.)

In the Matter of
Leonie Davis, No. 224575

Case number(s):
05-O-04649-PEM; 05-O-04948-PEM

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 Fact, Conclusions of Law and Disposition.

2-13-07

Date

2-14-07

Date

2/15/07

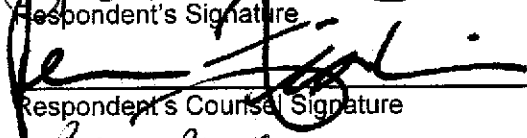
Date



Respondent's Signature

Leonie Davis

Print Name



Respondent's Counsel Signature

Jerome Fishkin

Print Name



Deputy Trial Counsel's Signature

Robin Brune

Print Name

(Do not write above this line.)

In the Matter Of
Leonie Davis, No. 224575

Case Number(s):
05-O-04649-PEM; 05-O-04948-PEM

ORDER

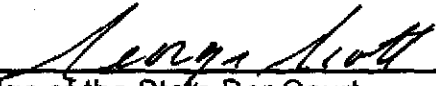
Finding the stipulation to be fair to the parties and that it adequately protects the public,
IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without
prejudice, and:

- ☒ 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.

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 9.18(a), California Rules of Court.)**

2/22/07

Date



Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court 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 San Francisco, on February 23, 2007, 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:

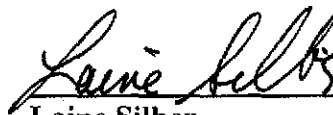
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

**JEROME FISHKIN
FISHKIN & SLATTER LLP
1111 CIVIC DR STE 215
WALNUT CREEK, CA 94596**

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

WONDER LIANG, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **February 23, 2007.**



Laine Silber
Case Administrator
State Bar Court