



ORIGINAL

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**State Bar Court of California
Hearing Department
Los Angeles**

Counsel For The State Bar Jean Cha The State Bar of California 1149 South Hill Street Los Angeles, CA 90015-2299 (213) 765-1000 Bar # 228137	Case Number (s) 05-O-05140-RAH Submitted to: Settlement Judge	(for Court's use) <p align="center">FILED</p> <p align="center">FEB 22 2007 <i>YTC</i></p> <p align="center">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> <p align="center">PUBLIC MATTER</p>
Counsel For Respondent Kevin P. Gerry 1001 Olive Street Santa Barbara, CA 93101 (805) 899-2990	STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
Bar # 129690 In the Matter Of: Janis L. Turner Bar # 79217 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 **January 19, 1978**.
- (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 **15** 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."

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- (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):
- costs added to membership fee for calendar year following effective date of discipline.
 - costs to be paid in equal amounts prior to February 1 for the following membership years: (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 **05-O-03291**
 - (b) Date prior discipline effective **March 19, 2006**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **Business and Professions Code 6068(k)**
 - (d) Degree of prior discipline **one-year stayed suspension; two-years probation**
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline. **Case Number 02-O-10434 effective May 23, 2004**
Rules of Professional Conduct, rule 3-110(A)
Business and Professions Code, Section 6068(e)
30-day stayed suspension; one-year probation
- (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 with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) **Good Faith:** Respondent acted in good faith.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances

See page 12.

D. Discipline:

(1) **Stayed Suspension:**

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

The above-referenced suspension is stayed.

(2) **Probation:**

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

E. Additional Conditions of Probation:

- (1) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2) 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.
- (3) 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.
- (4) 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.

- (5) 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.

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- (6) 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:
- (7) 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 State Bar Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: .
- (8) 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.
- (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 |

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 within one year. **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: **Taken and passed March 12, 2005.**
- (2) **Other Conditions:**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: **JANIS L. TURNER**

CASE NUMBERS: **05-O-05140-RAH**

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that she is culpable of wilfully violating Business and Professions Code sections 6103 and 6068(o)(3).

1. Janis L. Turner ("Respondent") was admitted to the practice of law in the State of California on January 19, 1978, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.

2. In December 2003, Richard Mark Anderson ("Anderson") employed Respondent to appeal a \$636,460.71 judgment entered against Anderson in a matter entitled *County of San Diego v. Richard Anderson*, San Diego County Superior Court case number GIC779428, whereby the County of San Diego, by and through County Counsel Thomas Bunton (the "County"), brought an action for trespassing on County property against Anderson (the "trespassing case").

3. At all times mentioned herein, Respondent represented Anderson in the appeal of the trespassing case in which judgment was entered against Anderson in the amount of \$636,460.71.

4. On February 6, 2004, Respondent filed a notice of appeal of the judgment on Anderson's behalf with the California Court of Appeal, Fourth Appellate District, case number D043795 (the "appeal").

5. On September 23, 2004, Respondent filed an opening brief in the appeal.

6. On December 13, 2004, the appeal was fully briefed.

7. On December 22, 2004, the County filed a motion for sanctions under rule 27(e)(1)¹

¹Former Rule 27, predecessor to current Cal. Rules of Court, Rule 8.276 (2006). This new rule became effective January 1, 2007. See especially Rule 8.276(d)(1). See also Cal. Code Civ. Proc. § 907 (2006).

of the California Rules of Court ("rule 27(e)(1)") against Respondent for filing a frivolous appeal. Under rule 27(e)(1), "a Court of Appeal may impose sanctions, including the award or denial of costs, on a party or an attorney for: (A) taking a frivolous appeal or appealing solely to cause delay; (B) including in the record any matter not reasonably material to the appeal's determination; or (C) committing any other unreasonable violation of these rules."

8. The County's motion for sanctions sought sanctions in the amount of \$25,601.50 in legal fees alleging Respondent filed a frivolous appeal and requested that Respondent be ordered to pay \$10,000 to the Court of Appeal as punishment for inappropriate conduct.

9. On January 5, 2005, Respondent replied to the motion for sanctions.

10. On January 12, 2005, Anderson filed, in pro per, a Voluntary Petition for Relief Under Chapter 11 of the Bankruptcy Code with the U.S. Bankruptcy Court of the Southern District of California, Petition Number 05-00202-JH7.

11. On January 18, 2005, the County informed the Court of Appeal that Anderson had filed for bankruptcy protection and referenced the automatic stay provision pursuant to 11 U.S.C. § 362(a)(1).

12. On January 20, 2005, the Court of Appeal stayed all further proceedings in the appeal pursuant to 11 U.S.C. § 362 in light of Anderson's bankruptcy.

13. On February 11, 2005, Anderson employed Bankruptcy Counsel Derek J. Lobo ("Lobo") to represent him in the Chapter 11 Bankruptcy proceedings.

14. In February 2005, the County entered into a stipulation with Anderson and his bankruptcy attorney, Lobo, for relief from the automatic stay (the "stipulation") as it pertained to the appeal.

15. On February 22, 2005, the stipulation was served on Respondent. Respondent received the stipulation.

16. On February 25, 2005, the United States Bankruptcy Court filed an order lifting the automatic stay in accordance with the stipulation. The order stated that the automatic stay was lifted regarding the appeal, including all proceedings in the California Court of Appeal, the California Supreme Court and the San Diego Superior Court for determining appellate costs.

17. On or about February 28, 2005, Respondent was served with notice that the bankruptcy court had lifted the stay as to the appeal. Respondent received the notice.

18. On or about March 4, 2005, the Court of Appeal received notice that the bankruptcy court had lifted the automatic stay with respect to the appeal and vacated the stay of the appeal. On or about March 4, 2005, the clerk of the Court of Appeal served notice on Respondent that the stay on the appeal had been vacated. Respondent received the Court of Appeal's notice.

19. On June 13, 2005, the appeal was argued and submitted on the issues of both the judgment and sanctions.

20. On June 30, 2005, the Court of Appeal filed its decision in favor of the County and specifically granted the motion for sanctions in part. On June 30, 2005, the decision was served on Respondent. Respondent received the decision. The Court of Appeal stated on page one of its decision that "the County of San Diego's motion for sanctions is granted in part and denied in part. Further the court, on page 29, section VI, under the heading County's Motion for Sanctions, stated as follows:

On our review of this record, it is evident that none of Defendant's arguments is supported by a careful reading of the evidence or the applicable law. Defendant's appellate attorney does not show any clear awareness of the proper scope of appellate review of an existing, properly designated record. Nevertheless, Defendant's appeal was not totally devoid of arguable merit insofar as it requested a review of the trial court's exercise of discretion and rulings of law, on matters properly raised below, such as through in limine proceedings. Despite the difficulty we have had in reviewing this poorly prepared record and appellant's briefs, we exercise our discretion to decline to impose sanctions as requested against Defendant's appellate attorney, either in favor of the County or in favor of this Court, *but with one exception*. We shall order only that Defendant's appellate attorney be held jointly and severally liable for the ordinary costs on appeal. (Cal. Rules of Court, rule 27(a)(4), (e)(1).) It is time for this matter to be concluded. (Italics added.)

Finally, the court, in the disposition section of the decision that "The motion for sanctions is denied, except to the extent that the ordinary costs on appeal shall be paid by appellant and/or his appellate attorney, jointly and severally."

21. On August 30, 2005, the Court of Appeal's decision became final.

22. On August 30, 2005, the County served Respondent with a [Proposed] Judgment Awarding Costs on Appeal. Respondent received the [Proposed] Judgment Awarding Costs on Appeal.

23. On August 30, 2005, the clerk of the Court of Appeal sent the Remittitur² to the San Diego County Superior Court enclosing a certified copy of the original opinion/decision entered on June 30, 2005; which became final on August 30, 2005. On August 30, 2005, the Remittitur was served on Respondent. Respondent received the Remittitur.

24. On August 31, 2005, the Remittitur was filed in the San Diego County Superior Court.

25. On August 31, 2005, the County filed a Memorandum of Costs on Appeal reflecting appellate costs for the amount of \$4,469.70 with the San Diego County Superior Court. The Memorandum of Costs on Appeal was served on Respondent. Respondent received the Memorandum of Costs on Appeal.

26. On September 21, 2005, the Superior Court entered judgment against Respondent and Anderson, jointly and severally³, in the amount of \$4,469.70 which represented the County's recoverable appellate costs. On September 21, 2005, the judgment was served on Respondent. Respondent received the judgment.

27. On September 29, 2005, the County faxed and mailed to Respondent a letter with a copy of the judgment awarding costs to the County and against Respondent. In the letter, the County stated that it had decided to collect from Respondent, rather than Anderson. In the letter, the County also requested that Respondent pay \$4,469.70 to the County within 10 days. Respondent received the letter but did not pay \$4,469.70 to the County.

28. On October 14, 2005, the County faxed and mailed to Respondent a written request that Respondent immediately pay the \$4,469.70 sanction for failing to adequately cite to the record on appeal to the County. Respondent received the letter but did not pay \$4,469.70 to the County.

²Cal. Rules of Court, Rule 8.1018 (2006). This rule became effective January 1, 2007, former rule 69.

³Def.: Liability that may be apportioned either among two or more parties or to only one or a few select members of the group, at the adversary's discretion. Thus, each liable party is individually responsible for the entire obligation, but a paying party may have a right of contribution and indemnity from nonpaying parties. (Bryan A. Garner et al., *Black's Law Dictionary* 926 (7th Ed., 1999).)

29. On November 30, 2005, the State Bar of California ("State Bar") received a complaint from the County concerning Respondent's non-payment of the \$4,469.70 sanction.

30. On January 10, 2006, a State Bar investigator sent a letter to Respondent regarding the County's complaint against her.

31. On January 15, 2006, Respondent sent a letter to the State Bar investigator and a copy of a letter purportedly sent to the County and dated November 20, 2005. In the letters, Respondent took the position that the Superior Court was without jurisdiction to enter any judgment in Anderson's case because of Anderson's bankruptcy and thus, the County did not have a collectable judgment. However, the County did not receive Respondent's November 20, 2005 letter. Further, the Respondent's position was without merit as (1) the Bankruptcy Court lifted the stay as to the appeal; (2) the sanctions were awarded by the Court of Appeal against both Respondent and Anderson, jointly and severally; (3) Respondent never filed for bankruptcy protection; and (4) Respondent never contested the sanctions imposed against her.

32. On May 3, 2006, without informing the County, Respondent sent a \$4,469.70 check, dated May 3, 2006, to Gary Slater, general counsel for Richard Kipperman, the trustee in Anderson's bankruptcy. On May 16, 2006, Kipperman negotiated the check. Respondent was required to pay \$4,469.70 to the County, and not to the trustee.

33. On August 15, 2006, Respondent filed a motion for determination of nature of debt on behalf of Anderson with the United States Bankruptcy Court.

34. On October 5, 2006, the United States Bankruptcy Court ordered that the \$4,469.70 of sanctions/appellate costs that Respondent erroneously paid to Kipperman be paid to the County.

35. October 30, 2006, Kipperman sent a payment to the County for \$4,469.70 pursuant to the October 5, 2006 United States Bankruptcy Court order.

36. By June 30, 2005, Respondent had received notice of the imposition of the court-ordered sanction against her.

37. At no time did Respondent notify the State Bar of the imposition of the sanction against her.

CONCLUSIONS OF LAW.

38. By not paying the June 30, 2005 sanction within a reasonable time and by not paying \$4,469.70 to the County for the sanction imposed severally against Respondent, Respondent

wilfully disobeyed or violated an order of the court requiring her to do an act connected with or in the course of Respondent's profession which she ought in good faith to have done, in wilful violation of Business and Professions Code § 6103.

39. By not informing the State Bar of the sanction, Respondent wilfully failed to report a judicial sanction to the agency charged with attorney discipline, in writing, within 30 days of the time Respondent had knowledge of the imposition of the judicial sanction against Respondent in wilful violation of Business and Professions Code § 6068(o)(3).

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was January 31, 2007.

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 \$3,654.00. Respondent acknowledges that this figure is an estimate only and that it does not include incidental expenses (see Bus. & Prof. Code section 6068.10(c)) or taxable costs (see C.C.P. section 1033.5(a)) 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.

AGGRAVATING CIRCUMSTANCES.

Respondent has a prior record of discipline. (Std. 1.2(b)(f).) The nature and extent of each of these prior records is an aggravating circumstance. (Std. 1.2(b)(i).)

On November 3, 2003, Respondent stipulated, prior to the filing of formal charges, to a 30-day stayed suspension and a one-year probation for dismissing a breach of contract action without her client's authorization on February 24, 2001. The discipline was effective on May 23, 2004.

On October 14, 2005, Respondent stipulated, prior to the filing of formal charges, to a one-year stayed suspension and two-year probation for violating the conditions of her first prior. Specifically, Respondent failed to timely file a quarterly report due on April 10, 2005 and a final report due on May 23, 2005. No mitigating circumstances were present. Respondent's prior discipline was an aggravating circumstance. The discipline became effective March 19, 2006.

MITIGATING CIRCUMSTANCES.

See Other Circumstances, below.

OTHER CIRCUMSTANCES.

Respondent admits that she is unfamiliar with the Bankruptcy Code and should not have interpreted the black letter law as she did. Respondent contends that she relied upon her own erroneous interpretation of statute and that her actions were consistent with the advice of a bankruptcy attorney. Respondent claims that she acted in good faith.

Respondent now understands that she was required to report the sanction to the State Bar within thirty days from the date the sanction became known to her. Respondent also acknowledges that she erroneously paid the sanction owed to the County to the Bankruptcy Trustee in May 2006. For purposes of this stipulation her claim of good faith is accepted.

AUTHORITIES SUPPORTING DISCIPLINE.

The purposes of imposing sanctions for professional misconduct are the protection of the public, the courts and the legal profession, the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession. (Standard 1.3, Rules Proc. State Bar, title IV, Stds. for Atty. Sanctions for Prof. Misconduct ("Std."))

The standards support actual suspension to disbarment for Respondent's misconduct. According to Std. 2.6(a) violations of §§ 6103 and 6068(o)(3) of the Business and Professions Code shall result in disbarment or suspension depending on the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in Std. 1.3. Stayed suspension falls within that range.

Standard 1.7(b) calls for disbarment where there are two prior impositions of discipline. However, disbarment is not appropriate where there is no evidence of other serious *and habitual* misconduct. (*Maltaman v. State Bar* (1987) 43 Cal.3d 924, 958.) Deviation from the standards is appropriate where, on balance, stayed suspension is sufficient to serve the purposes of attorney discipline in accordance with Std. 1.3. (*Howard v. State Bar* (1990) 51 Cal.3d 215, 221.)

Obedience to court orders is intrinsic to the respect attorneys and their clients must accord the judicial system. Attorneys are expected to follow the order or proffer a formal explanation by motion or appeal as to why the order cannot be obeyed. (*In the Matter of Boyne* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 389, 403.)

As the degree of professional discipline is not derived from a fixed formula, but from taking all factors on balance, deviation from actual suspension is appropriate because Respondent held a sincere belief that she was acting in support of the Bankruptcy Code. (Std. 2.6; Citing *Respondent X*, 3 Cal. State Bar Ct. Rptr. at 605; Cf. *In re Cooper* (1971) 5 Cal.3d 256.) Also, the present matter is distinguishable from actual suspension cases. Where a respondent had a

record of two prior disciplinary proceedings, respondent did not belatedly comply with an order, and his prior record was for similar misconduct actual suspension was appropriate. (*In the Matter of Meyer* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 697, 702.) In another case, actual suspension was appropriate where a respondent had a record of one prior disciplinary proceeding, failed to participate in the State Bar Court proceeding, lacked remorse, and failed to acknowledge the wrongfulness of his actions. (*Conroy v. State Bar* (1990) 51 Cal.3d 799, 802-803, 805-806.) Here, stayed suspension is appropriate because *Conroy* and *Meyer* involved greater aggravation than in the present proceeding.

Respondent had a duty to report the sanction 30 days from the moment she had notice of the June 30, 2005 sanction order. (*In the Matter of Respondent Y* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 862.) The general purpose of willingness to commit the act or omission constitutes a wilful violation. (Cf. *Durbin v. State Bar* (1979) 23 Cal.3d 461, 467.)

MULTISTATE PROFESSIONAL RESPONSIBILITY EXAMINATION EXCLUSION.

It is recommended that Respondent not be required to take the Multistate Professional Responsibility Examination because she was ordered to take and pass the examination on May 23, 2004 within one year in connection with case number 02-O-10434. Respondent complied on March 12, 2005.

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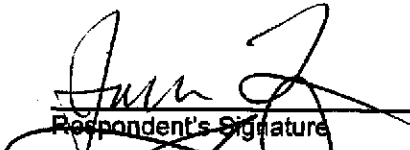


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In the Matter of Janis L. Turner	Case number(s): 05-O-05140-RAH
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SIGNATURE OF THE PARTIES

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

<u>1/31/07</u> Date	 Respondent's Signature	Janis L. Turner Print Name
<u>1-31-07</u> Date	 Respondent's Counsel Signature	Kevin P. Gerry Print Name
<u>2-8-07</u> Date	 Deputy Trial Counsel's Signature	Jean Cha Print Name

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In the Matter Of Janis L. Turner	Case Number(s): 05-O-05140-RAH
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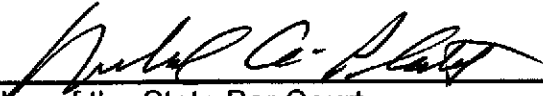
ORDER

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

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

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.)**

02-16-07
Date



Judge of the State Bar Court
Honorable Richard A. Platel

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DECLARATION OF SERVICE BY REGULAR MAIL

CASE NUMBER: 05-O-05140-RAH

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 STAYED SUSPENSION; NO ACTUAL SUSPENSION

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

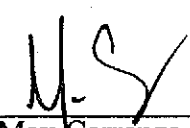
**Kevin P. Gerry
obo Janis L. Turner
1001 Olive Street
Santa Barbara, CA 93101**

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

N/A

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: February 8, 2007

SIGNED: 
Max Carranza
Declarant

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on February 22, 2007, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION
AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL
SUSPENSION**

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

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

**KEVIN P. GERRY
1001 OLIVE ST
SANTA BARBARA, CA 93101**

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

JEAN CHA, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on February 22, 2007.



Tammy R. Cleaver
Case Administrator
State Bar Court