

(Do not write above this line.)

State Bar Court of California Hearing Department Los Angeles STAYED SUSPENSION		
Counsel For The State Bar Joseph R. Carlucci Supervising Trial Counsel 1149 South Hill Street Los Angeles, CA 90015 (213) 765-1053 Bar # 172309	Case Number(s): 09-O-12700 09-O-12843 09-O-13165 09-O-15002	For Court use only <div style="text-align: center;"> FILED MAR 01 2011 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
Counsel For Respondent Lisa F. Rosenthal 21601 Vanowen St., Suite 208 Canoga Park, CA 91303 Bar # 153320	Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: RITA A. KAHLENBERG Bar # 200518 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 March 3, 1999.
- (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 18 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):
 - ☐ Costs are added to membership fee for calendar year following effective date of discipline.
 - ☒ Costs are to be paid in equal amounts prior to February 1 for the following membership years: three (3) billing cycles following the effective date of the Supreme Court Order. See Attachment, page 15 for additional information re costs. (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure). If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - ☐ Costs are 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 or a separate attachment entitled "Prior Discipline."
- (2) ☐ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) ☐ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings:

- (7) ☒ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. See Attachment, pg. 17 for additional information.
- (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. See Attachment pg. 17 for additional information.
- (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.

(Do not write above this line.)

(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 two (2) 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 (3) 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.

- (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 checked="" 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 5.162(A) & (E), Rules of Procedure.**
- ☐ No MPRE recommended. Reason: .
- (2) ☐ **Other Conditions:**

In the Matter of: RITA A. KAHLENBERG (no. 200518)	Case Number(s): 09-O-12700, 09-O-12843, 09-O-13165, 09-O-15002
--	--

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
ZULMA RAUDA	\$2,000.00	N/A
STACIE JENNINGS	\$3,500.00	N/A

- ☐ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than

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
ZULMA RAUDA	\$100.00	Monthly - by no later than the 15th day of the month
STACIE JENNINGS	\$100.00	Monthly - by no later than the 15th day of the month

- ☒ If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

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:

(Do not write above this line.)

- a. 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:

RITA A. KAHLENBERG (no. 200518)

CASE NUMBER(S):

09-O-12700, 09-O-12843, 09-O-13165, 09-O-15002

FACTS AND CONCLUSIONS OF LAW.

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

Case No. 09-O-12700

Facts

1. On July 15, 2008, Sukwant Singh and Jaswant Kaur ("Singh and Kaur") employed Respondent on an hourly basis to defend them in a civil matter entitled *Jagdeep Kaur v. Sukwant Singh, et al.*, Los Angeles County Superior Court, case no. EC047098 ("the Singh action"). Singh and Kaur paid Respondent advanced fees of \$5,000.00.
2. Dissatisfied with Respondent's performance, on March 26, 2009, Singh and Kaur retained new counsel, Jose Almodovar ("Almodovar").
3. On March 26, 2009, Almodovar sent a letter to Respondent advising Respondent that Singh and Kaur had retained Almodovar in place of Respondent to represent them in the *Singh* action. Almodovar's letter also requested Respondent send Singh's and Kaur's file to him. Respondent received the letter. Respondent did respond in any manner to Almodovar's letter.
4. On May 12, 2009, Almodovar filed a motion to formally substitute himself in as Singh and Kaur's counsel of record in place of Respondent in the *Singh* action. Respondent received the motion. Respondent did not oppose the motion or respond to it in anyway. On May 29, 2009, the court in the *Singh* action issued an order granting Almodovar's motion and appointing him attorney of record for Singh and Kaur.
5. On April 8, July 2, and July 31, 2009, Almodovar sent additional letters to Respondent that requested Respondent send Singh's and Kaur's file to him. Almodovar's additional letters also requested Respondent provide Almodovar with an accounting of the \$5,000.00 advanced fee that Singh and Kaur paid her. Respondent received the three additional letters. Respondent did not respond in any matter to Almodovar's three additional letters.
6. At no time did Respondent release or otherwise make available Singh's or Kaur's to them or their attorney, Almodovar, nor did she communicate with Singh, Kaur or Almodovar regarding how they could obtain their files.
7. At no time did Respondent provide Almodovar, Singh, or Kaur with an accounting of the \$5,000 in advanced fees that Singh and Kaur paid Respondent.
8. On May 1, 2009, the State Bar opened a disciplinary investigation of Respondent, case no. 09-O-12700, pursuant to a complaint filed by Singh and Kaur ("Singh and Kaur investigation").

9. On June 16, 2009, a State Bar investigator sent a letter to Respondent requesting his written response to the allegations in the Singh and Kaur investigation. The letter included a deadline of June 30, 2009 for Respondent to provide her written response. Respondent received the letter.

10. Respondent did not respond in any manner to the State Bar's June 16, 2009 letter or otherwise communicate with the State Bar investigator.

11. On July 10, 2009, the State Bar investigator sent a second letter to Respondent requesting her written response to the allegations in the Singh and Kaur investigation. The second letter included a deadline of July 24, 2009 for Respondent to provide her written response. Respondent received the letter.

12. Respondent did not respond in any manner to the State Bar's July 10, 2009 letter or otherwise communicate with the State Bar investigator.

Conclusions of Law

13. By not releasing the client file to Singh or Kaur, Respondent willfully failed, upon termination of employment, to release promptly to a client, at the request of the client, all the client papers and property, in willful violation of rule 3-700(A)(2) of the Rules of Professional Conduct.

14. By failing to provide Almodovar, Singh, or Kaur with an accounting of the \$5,000 in advanced fees that Singh and Kaur paid Respondent, Respondent willfully failed to render appropriate accounts to a client, in willful violation of rule 4-100(B)(3) of the Rules of Professional Conduct.

15. By failing to provide a written response to the allegations or otherwise cooperate in the Singh and Kaur investigation, Respondent failed to cooperate in a disciplinary investigation, in willful violation of Business and Professions Code, section 6068(i).

Case No. 09-O-12843

Facts

16. On March 30, 2009, the State Bar opened a disciplinary investigation of Respondent, case no. 09-O-12843, pursuant to a complaint filed by Roman (the "Roman investigation").

17. On June 16, 2009, a State Bar investigator sent a letter to Respondent requesting her written response to the allegations in the Roman investigation. The letter included a deadline of June 30, 2009 for Respondent to provide her written response. Respondent received the letter.

18. Respondent did not respond in any manner to the State Bar's June 30, 2009 letter or otherwise communicate with the State Bar investigator.

19. On July 10, 2009, the State Bar investigator sent a second letter to Respondent requesting her written response to the allegations in the Jenningses investigation. The second letter included a deadline of July 24, 2009 for Respondent to provide her written response. Respondent received the letter.

20. Respondent did not respond in any manner to the State Bar's July 10, 2009 letter or otherwise communicate with the State Bar investigator.

///

Conclusions of Law

21. By failing to respond in writing to the allegations in case no. 09-O-12843 or otherwise cooperate in the investigation of the matter, Respondent willfully failed to cooperate in a disciplinary investigation, in willful violation of Business and Professions Code, section 6068(i).

Case No. 09-O-13165

Facts

22. On June 6, 2008, Zulma Rauda ("Rauda") employed Respondent on an hourly basis to collect unpaid child support payments on behalf of Rauda. At that time, Rauda paid Respondent \$2,000 in advanced fees.

23. At no time did Respondent take any steps to collect Rauda's child support payments or otherwise perform any legal service of value for Rauda.

24. Between August 2008 and in February 2009, Rauda placed telephone calls to Respondent at her law office and to Respondent's cell phone on an at least twice monthly basis. Each time, Rauda left voice mail messages for Respondent to call Rauda regarding the status of her child support payments. Respondent received all of the voice mail messages.

25. At no time did Respondent respond to any of Rauda's voice mail messages or otherwise communicate with Rauda.

26. Respondent did not perform any legal services of value on behalf of Rauda after June 6, 2008, and thereby constructively withdrew from her employment with Rauda as of that date.

27. Respondent did not inform Rauda of her intent to withdraw from representation or take any other steps to avoid reasonably foreseeable prejudice to Rauda.

28. Respondent did not earn any portion of the \$2,000 in advanced fees Rauda paid her.

29. At no time did Respondent refund any portion of the \$2,000 to Rauda.

30. On April 6, 2009, the State Bar opened a disciplinary investigation of Respondent, case no. 09-O-13165, pursuant to a complaint filed by Rauda (the "Rauda investigation").

31. On July 14, 2009, a State Bar investigator sent a letter to Respondent requesting her written response to the allegations in the Rauda investigation. The letter included a deadline of July 30, 2009 for Respondent to provide her written response. Respondent received the letter.

32. Respondent did not respond in any manner to the State Bar's July 14, 2009 letter or otherwise communicate with the State Bar investigator.

33. On August 18, 2009, the State Bar investigator sent a second letter to Respondent requesting her written response to the allegations in the Rauda investigation. The second letter included a deadline of September 2, 2009 for Respondent to provide her written response. Respondent received the letter.

34. Respondent did not respond in any manner to the State Bar's August 18, 2009 letter or otherwise communicate with the State Bar investigator.

///

Conclusions of Law

35. By failing to take any steps to collect Rauda's child support payments or otherwise perform any legal service of value for Rauda, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

36. By failing to respond to Rauda's voice mail messages, Respondent willfully failed to respond to a client's reasonable status inquiries, in willful violation of Business and Professions Code, section 6068(m).

37. By not informing Rauda of her intent to withdraw from employment, Respondent improperly withdrew from employment of a client, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

38. By not refunding \$2,000 to Rauda, Respondent willfully failed to refund unearned fees, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

39. By failing to respond in writing to the allegations in case no. 09-O-13165 or otherwise cooperate in the investigation of the matter, Respondent willfully failed to cooperate in a disciplinary investigation.

Case No. 09-O-15002

Facts

40. Jeff and Stacie Jennings ("the Jenningses") employed Respondent in June 2007 to represent them in a civil claim for damages against St. Bernardine Catholic Church.

41. The Jenningses paid Respondent \$3,500 in advance fees and agreed to be billed at the rate of \$275.00 per hour.

42. Respondent did not perform any services of value for the Jenningses, including but not limited to taking action to resolve the Jenningses' claim with St. Bernardine or initiating a civil action on behalf of the Jenningses against St. Bernardine.

43. On March 24, 2008, the Jenningses sent an e-mail to Respondent requesting the status of their case. Respondent received the e-mail. Respondent did not respond in any manner to the Jenningses e-mail.

44. On May 1, 2008, the Jenningses sent Respondent another e-mail requesting the status of their case. In this e-mail, the Jenningses also requested that Respondent move the case forward as quickly as possible, including taking formal legal action against St. Bernardine Catholic Church.

45. Respondent received the e-mail. Respondent did not respond in any manner to the Jenningses e-mail.

46. On October 13, 21, 31, 2008, November 4, and 13, 2008, the Jenningses called Respondent's law office and left voice mail messages for her to call them regarding the status of their case. Respondent received the messages. Respondent did not respond in any manner to the Jenningses messages.

47. On February 26, 2009, the Jenningses called Respondent law office and found that Respondent's phone number had been disconnected with no forwarding number given.

48. On February 26, 2009, the Jenningses sent Respondent an e-mail inquiring about her office's disconnected phone number and again requesting the status of their case. Respondent received the e-mail. Respondent did not respond in any manner to the e-mail.

49. Respondent last communicated with the Jenningses on October 31, 2007 when she sent them a billing invoice.

50. Respondent failed to perform any services of value for the Jenningses or otherwise communicate with them after October 31, 2007, and thereby Respondent constructively terminated her employment with the Jenningses as of that date. At no time did Respondent inform the Jenningses that she was withdrawing from their employment or take any other steps to avoid reasonably foreseeable prejudice to the Jenningses.

51. On July 13, 2009, the Jenningses sent Respondent an e-mail in which they demanded that Respondent return their file and refund the \$3,500 in advanced fees they paid to Respondent. Respondent received the e-mail.

52. On July 15, 2009, Respondent sent a reply e-mail to the Jenningses in which she agreed to refund the \$3,500 advanced fees to them. The Jenningses received the e-mail.

53. At no time did Respondent refund to the Jenningses any portion of \$3,500 in advanced fees she had agreed to refund.

54. At no time did Respondent release the Jenningses file to them or communicate with the Jenningses regarding how they could obtain their file.

55. On August 13, 2009, the State Bar opened a disciplinary investigation of Respondent, case no. 09-O-15002, pursuant to a complaint filed by the Jenningses (the "Jenningses investigation").

56. On October 20, 2009, a State Bar investigator sent a letter to Respondent requesting her written response to the allegations in the Jenningses investigation. The letter included a deadline of November 3, 2009 for Respondent to provide her written response. Respondent received the letter.

57. Respondent did not respond in any manner to the State Bar's October 20, 2009 letter or otherwise communicate with the State Bar investigator.

58. On November 13, 2009, the State Bar investigator sent a second letter to Respondent requesting her written response to the allegations in the Jenningses investigation. The second letter included a deadline of December 1, 2009 for Respondent to provide her written response. Respondent received the letter.

59. Respondent did not respond in any manner to the State Bar's November 13, 2009 letter or otherwise communicate with the State Bar investigator.

Legal Conclusions

60. By failing to perform any services of value for the Jenningses, including but not limited to taking action to resolve the Jenningses' claim with St. Bernardine or initiating a civil action on behalf of the Jenningses against St. Bernardine, Respondent intentionally, recklessly or repeatedly failed to perform legal services with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

61. By failing to respond to the Jenningses voice mail messages and e-mails, Respondent willfully failed to respond to clients' reasonable status inquiries, in willful violation of Business and Professions Code, section 6068(m).

62. By not informing the Jenningses of her intent to withdraw from employment, or taking reasonable steps to avoid reasonably foreseeable prejudice to them, Respondent willfully improperly withdrew from employment of a client, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

63. By not refunding \$3,500 to the Jenningses, Respondent willfully failed to refund unearned fees, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

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

65. By failing to respond in writing to the allegations in case no. 09-O-15002 or otherwise cooperate in the investigation of the matter, Respondent willfully failed to cooperate in a disciplinary investigation, in willful violation of Business and Professions Code, section 6068(i).

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was January 13, 2011.

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>
09-O-12843	Four	Rules of Professional Conduct, rule 3-110(A)
09-O-12843	Five	Business and Professions Code, section 6068(m)
09-O-12843	Six	Rules of Professional Conduct, rule 3-700(A)(2)

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of January 13, 2011, the prosecution costs in this matter are **\$6,862.00**. The costs are to be paid in equal amounts prior to February 1 for the following three billing cycles following the effective date of the Supreme Court Order.

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.

If Respondent fails to pay any installment within the time provided herein or as may be modified by the State Bar Court pursuant to section 6086.10, subdivision (c), the remaining balance of the costs is due and payable immediately and enforceable both as provided in Business and Professions Code, section 6140.7 and as a money judgment unless relief has been granted under the Rules of Procedure of the State Bar of California. (Rules of Procedure, rule 5.134 (former rule 286).

///

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 1.3 of the Standards for Attorney Sanctions for Professional Misconduct ("Standards") provides in pertinent part that, "[t]he primary purposes of disciplinary proceedings...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."

The following standards apply to this matter:

1) Standard 2.2(b) - Culpability of a member of...a violation of rule 4-100, Rules of Professional Conduct, none of which offenses result in the willful misappropriation of entrusted funds or property shall result in at least a three month actual suspension from the practice of law, irrespective of mitigating circumstances.

2) Standard 2.4 - Culpability of a member of a pattern of wilfully failing to perform services demonstrating the member's abandonment of the causes in which he or she was retained shall result in disbarment. Culpability of a member of wilfully failing to perform services in an individual matter or matters not demonstrating a pattern of misconduct or culpability of a member of wilfully failing to communicate with a client shall result in reproof or suspension depending upon the extent of the misconduct and the degree of harm to the client.

3) Standard 2.6(a) - A violation of Business and Professions Code, section 6068 shall result in disbarment or suspension depending on the gravity of the offense or the harm, if any, to the victim.

4) Standard 2.10 - Culpability of a member of a violation of any provision of the Business and Professions Code not specified in these standards or of a wilful violation of any Rule of Professional Conduct not specified in these standards shall result in reproof or suspension according to the gravity of the offense or the harm, if any, to the victim, with due regard to the purpose of imposing discipline set forth in standard 1.3.

5) Standard 1.6(a) - If two or more acts of professional misconduct are found or acknowledged in a single disciplinary proceeding, and different sanctions are prescribed by these standards for said acts, the sanction imposed shall be the more or most severe of the different applicable sanctions.

Based upon Standard 1.6(a), Standard 2.2(b) is the controlling standard in this matter because of Respondent's failure to provide an accounting to her client's subsequent attorney in case no. 09-O-12700 (count two). Standard 2.2(b) requires at least a three month actual suspension, irrespective of mitigating circumstances. It would be manifestly unjust to strictly apply Standard 2.2(b) and good cause exists to deviate from its guidelines for Respondent's failure to provide an accounting in case no. 09-O-12700. In that matter, Respondent did not fail to perform services and there was no dispute concerning Respondent's fees. Respondent's former clients did not allege they were owed a fee refund, nor did they pursue fee dispute allegation. Therefore, Respondent's failure to provide the accounting was did not harm the clients.

In consideration of the facts and circumstances surrounding Respondent's misconduct, and the aggravating and mitigating circumstances present, the parties submit that the intent and goals of the

Standards are met in this matter by the imposition of a two-year stayed suspension, and three years probation.

AGGRAVATING CIRCUMSTANCES.

1. Multiple Acts of Misconduct (Standard 1.2(b)(ii))

In three different client matters, Respondent committed multiple acts of misconduct, including failing to perform, failing to release files, failing to refund unearned fees, failing to communicate. Respondent also failed to cooperate with four State Bar investigations.

Multiple acts of misconduct are an aggravating circumstances pursuant to Standard 1.2(b)(ii).

MITIGATING CIRCUMSTANCES.

1. No Prior State Bar Discipline (Standard 1.2(e)(i))

Respondent was admitted to the State Bar on March 3, 1999, and has no prior record of State Bar discipline.

Standard 1.2(e)(i) has been applied to give an attorney mitigating credit for no prior discipline even where the underlying misconduct is found to be serious or significant. (*In the Matter of Stamper* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 96, 106, ft. 13).

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.

Respondent waives any objection to payment by the State Bar Client Security Fund upon a claim for the principal amount of restitution set forth herein.

(Do not write above this line.)

In the Matter of
RITA A. KAHLENBERG (no. 200518)

Case number(s):
09-O-12700, 09-O-12843, 09-O-13165, 09-O-15002

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.

2/8/11

Date

2/8/11

Date

2/9/11

Date

Rita A. Kahlenberg

Respondent's Signature

RITA A. KAHLENBERG

Print Name

Lisa F. Rosenthal

Respondent's Counsel Signature

LISA F. ROSENTHAL

Print Name

Joseph R. Carlucci

Deputy Trial Counsel's Signature

JOSEPH R. CARLUCCI

Print Name

In the Matter of: RITA A. KAHLENBERG (no. 200518)	Case Number(s): 09-O-12700, 09-O-12843, 09-O-13165 09-O-15002
--	---

STAYED SUSPENSION 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.

1. On page 2, paragraph (8) and on page 15, COSTS OF DISCIPLINARY PROCEEDINGS., first paragraph, after "Supreme Court Order", delete the period (.) and add ": 2012, 2013 and 2014."

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 5.58(E) & (F), 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.)**

Date

2/25/11

Judge of the State Bar Court

RICHARD A. HONE

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); 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 March 1, 2011, 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:

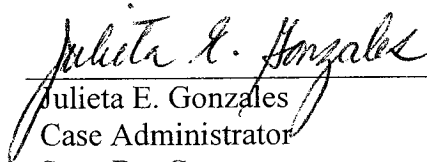
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

LISA F ROSENTHAL ATTORNEY AT LAW
LAW OFFICES OF ROSENTHAL & ASSOCIATES
21601 VANOWEN ST STE 208
CANOGA PARK, CA 91303

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

Joseph R. Carlucci, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on March 1, 2011.



Julieta E. Gonzales
Case Administrator
State Bar Court