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State Bar Court of California
Hearing Department
San Francisco

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<p>Counsel For The State Bar</p> <p>Susan I. Kagan Deputy Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2037</p> <p>Bar # 214209</p>	<p>Case Number (s) 10-O-01280</p>	<p>(for Court's use)</p> <p>PUBLIC MATTER</p> <p>FILED <i>DS</i></p> <p>AUG 23 2010</p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>In Pro Per Respondent</p> <p>Lisa M. Fraas P O Box 470 Tahoe Vista, CA 96148 (530) 546-4663</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>PROBATION VIOLATION - PMJ PROCEEDING</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>Bar # 142040</p> <p>In the Matter Of: Lisa M. Fraas</p> <p>Bar # 142040</p> <p>A Member of the State Bar of California (Respondent)</p>		

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 **December 11, 1989**.
- (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 **8** 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."

(Stipulation for approved by SBC Executive Committee 10/16/2000. Rev. 12/1/2005; 12/13/2006.)
(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004.)

~~Probation Violation~~

Probation-Violation

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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 (no actual suspension).
 - until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure (actual suspension).
 - costs to be paid in equal amounts prior to February 1 for the following membership years: (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 **S175507 (State Bar Court No. 07-O-13147)**
 - (b) Date prior discipline effective **11/5/09**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **RPC's 3-700(D)(2) and 4-100(A)(2); B&P sections 6068(e) and 6106.**
 - (d) Degree of prior discipline **30 days' actual suspension**
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline."
State Bar Court case # of prior case: 91-C-05571
Date prior discipline effective: 6/19/92
Rules of Professional Conduct/ State Bar Act violations: B&P section 6068(a)
Degree of prior discipline: private reproof
- (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.

(Stipulation for approved by SBC Executive Committee 10/16/2000. Rev. 12/1/2005; 12/13/2006.)
(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004.)

PROBATION VIOLATION

Probation Violation

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- (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. **See page 6.**
- (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. **See page 6.**
- (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. **See page 6.**
- (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. **See page 6.**
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) **No mitigating circumstances** are involved.

Additional mitigating circumstances:

D. Discipline (choose only one):

- (1) **Probation extended:** Respondent's probation in **S175507** is extended for **two (2) years**.
- (2) **Probation revoked; Probation Reinstated; Actual Suspension:** Respondent's probation is revoked and reinstated for _____ on the same terms and conditions as previously imposed in _____. The terms of probation remain the same as in the prior order except as indicated below. In addition, Respondent must be actually suspended from the practice of law for _____.
- (3) **Probation revoked; Probation Reinstated; No Actual Suspension:** Respondent's probation is revoked and reinstated for _____ on the same terms and conditions as previously imposed in _____. The terms of probation remain the same as in the prior order except as indicated below.
- (4) **Probation revoked; Probation not Reinstated; Actual Suspension:** Respondent's probation is revoked. Respondent must be suspended from the practice of law for _____.

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

- (1) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2) If Respondent is actually suspended for two years or more, he/she 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.
- (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 in each report 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.

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- (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: **Respondent attended Ethics School on 1/8/10 as a condition of her probation in Case No. S175507.**
- (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) **Probation Conditions Deleted or Modified:** :
- (2) **Rule 9.20, California Rules of Court:** Respondent must comply with the provisions of subdivisions (a) and (c) of rule 9.20, California Rules of Court, within 30 and 40 days, respectively, from the effective date of the Supreme Court order herein.
- (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 provisions of subdivisions (a) and (c) of rule 9.20, California Rules of Court, within 120 and 130 days, respectively, from the effective date of the Supreme Court order herein.

Attachment language (if any):

FACTS AND CONCLUSIONS OF LAW

Facts

1. On June 13, 2009, respondent signed a stipulation in State Bar Case No. 07-O-13147, wherein she admitted to committing misconduct and agreed to the following discipline: 30 days of actual suspension, one year of stayed suspension and one year of probation. On January 27, 2009, the State Bar Court issued an order approving the stipulation and recommending the discipline to the Supreme Court. On October 6, 2009, the Supreme Court issued an order in Case No. S175507 in accordance with the State Bar Court's recommendation. Soon thereafter, respondent received a copy of the Supreme Court's order.
2. The effective date of the Supreme Court's order was November 5, 2009. From November 5, 2009 through December 5, 2009, respondent was suspended from the practice of law and not entitled to practice law.
3. Upon receiving the Supreme Court's order, respondent was under the mistaken impression that the effective date of the Supreme Court's order was October 6, 2009, and that she was suspended from October 6, 2009 through November 6, 2009. Based on this mistake, respondent ceased practicing law through November 6, 2009. Thereafter, respondent resumed practicing law during the time that she was on suspension, as follows:
 - On November 13, 2009, respondent appeared telephonically on behalf of her client in the matter, *Marriage of White*, Sierra County Superior Court Case No. 6862.
 - On November 25, 2009, respondent appeared on behalf of her client in the matter, *Marriage of Mooneyham*, Nevada County Superior Court Case No. FL04384.
4. On November 30, 2009, respondent first learned of her mistake and sent a letter to the Office of Probation reporting that she practiced law while on suspension.

Conclusions of Law

By practicing law when she should have known that she was on suspension and not entitled to practice law, respondent held herself out as entitled to practice law and practiced law when she was not an active member of the State Bar of California and thereby failed to abide by and support the laws of the State of California, in willful violation of Business and Professions Code sections 6068(a), 6125 and 6126.

PENDING PROCEEDINGS

The disclosure date referred to on page two, paragraph A (7) was June 29, 2010.

FACTS SUPPORTING AGGRAVATING AND MITIGATING CIRCUMSTANCES

AGGRAVATING CIRCUMSTANCES

Standard 1.2(b)(i). Respondent has two prior records of discipline.

MITIGATING CIRCUMSTANCES

Standard 1.2(e)(ii). Respondent asserts that she acted in good faith.

Standard 1.2(e)(iii). Respondent's misconduct did not harm her clients.

Standard 1.2(e)(v). Respondent displayed spontaneous candor and cooperation to the State Bar during the disciplinary proceedings.

Standard 1.2(e)(vii). Respondent displayed remorse for her misconduct.

SUPPORTING AUTHORITY

Standard 2.6 requires that a violation of Business and Professions Code section 6068(a) shall result in disbarment or suspension according to the gravity of the offense or harm, if any, to the victim, with due regard to the purpose of imposing discipline set forth in standard 1.3.

Standard 1.7(a) provides that if a member is found culpable of professional misconduct in any proceeding which discipline may be imposed and the member has a record of one prior imposition of discipline as defined by standard 1.2(f), the degree of discipline imposed in the current proceeding shall be greater than that imposed in the prior proceeding unless the prior proceeding was so remote in time to the current proceeding and the offense for which it was imposed was so minimal in severity that imposing greater discipline in the current proceeding would be manifestly unjust. Standard 1.7(b) requires disbarment if a member has a record of two prior impositions of discipline unless the most compelling mitigating circumstances clearly predominate.

Engaging in the unauthorized practice of law generally results in an actual suspension. (See *In the Matter of Trousil* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 229 [30 days' actual suspension; prior record of discipline]; *In the Matter of Johnston* (Review Dept. 1997) 4 Cal. State Bar Ct. Rptr. 585 [60 days' actual suspension; no prior record of discipline]; *In the Matter of Mason* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 639 [90 days' actual suspension; prior record of discipline]; *In the Matter of Wells* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896 [six months' actual suspension; prior record of discipline]; *In the Matter of Burckhardt* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 343 [one year actual suspension; prior record of discipline].)


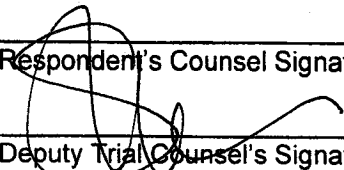
Although the standards recommend disbarment for a third discipline, the Supreme Court has recognized that compelling mitigation or other extraordinary circumstances may justify a lesser discipline. (See *Conroy v. State Bar* (1991) 53 Cal.3d 495, 506-507.) Given all the facts and compelling mitigation present here, a two-year extension of respondent's probation will meet the purposes of attorney discipline. Respondent is aware that any further misconduct may result in her disbarment.

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In the Matter of Lisa M. Fraas	Case number(s): 10-O-01280
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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>19 July 2010</u> Date	 Respondent's Signature	<u>Lisa M. Fraas</u> Print Name
<u> </u> Date	<u> </u> Respondent's Counsel Signature	<u>N/A</u> Print Name
<u>7/29/10</u> Date	 Deputy Trial Counsel's Signature	<u>Susan I. Kagan</u> Print Name

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In the Matter Of LISA MARIE FRAAS	Case Number(s): 10-O-01280
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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.

At page 6, in paragraph 1 of the section entitled "Facts," after "one year of probation" on the third line, insert: "As a condition of probation, respondent among other things, agreed to comply with the provisions of the State Bar Act and the Rules of Professional Conduct during the period of probation."


At page 6, at the end of the section entitled "Conclusions of Law" insert: "These provisions are part of the State Bar Act. Accordingly, respondent did not comply with the State Bar Act as ordered and therefore wilfully failed to comply with a condition of her disciplinary probation in violation of section 6068, subdivision (k) of the Business and Professions Code."

At page 2, item B.(1).(d), prior to "30," insert "one year's stayed suspension and one year's probation on conditions including."

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.)**

Aug 23 2010

Date



Judge of the State Bar Court
LUCY ARMENDARIZ

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 August 23, 2010, 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:

LISA M. FRAAS
LAW OFC LISA MARIE FRAAS
P O BOX 470
TAHOE VISTA, CA 96148

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

SUSAN KAGAN, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on August 23, 2010.



Laine Silber
Case Administrator
State Bar Court