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State Bar Court of California Hearing Department Los Angeles STAYED SUSPENSION		
Counsel For The State Bar Erin McKeown Joyce Deputy Trial Counsel State Bar of California 1149 South Hill Street Los Angeles, CA 90015-2299 Telephone: (213) 765-1356 Bar # 149946	Case Number(s): 10-O-4445	For Court use only <p style="text-align: center; font-size: 1.2em;">PUBLIC MATTER</p> <p style="text-align: center; font-size: 1.5em;">FILED</p> <p style="text-align: center;">MAR 12 2012</p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
Counsel For Respondent Paul Jean Virgo 9909 Topanga Boulevard Suite 282 Chatsworth, CA 91311 (310)666-9701 Bar # 67900	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: AUDREY MARIE RITTER Bar # 212840 A Member of the State Bar of California (Respondent)	(This area is shared with the previous row and contains the same text as above.)	

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 May 7, 2001.
- (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 11 pages, not including the order.

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- (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: 2013 and 2014. (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.

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- (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. Respondent has met with the State Bar and resolved this matter through this comprehensive stipulation. Respondent's stipulation to the facts, her culpability, and discipline is a mitigating circumstance. (See, In the Matter of Spaith (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521).
- (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. At the time of the delay in providing the accounting to her clients, Respondent was in the last part of her first pregnancy and then dealing with a newborn at home. She was taking time to be home with her new baby, and not in the office full-time for several months. She did provide an accounting to the clients after some delay.
- (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.

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- (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

Respondent was admitted in 2001 and had eight years of discipline free practice before the onset of the misconduct. Some mitigating credit for no prior discipline may be given 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).

D. Discipline:

(1) **Stayed Suspension:**

- (a) Respondent must be suspended from the practice of law for a period of one (1) year.
- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
 - ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
 - iii. and until Respondent does the following:

The above-referenced suspension is stayed.

(2) **Probation:**

Respondent is placed on probation for a period of two (2) 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 5.162(A) & (E), Rules of Procedure.**
- No MPRE recommended. Reason:
- (2) **Other Conditions:**

The attachment to the stipulation re facts, conclusions of law and disposition comprises pages 7 through 10.

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

**In the Matter of Audrey Marie Ritter
Case No. 10-O-4445**

PENDING PROCEEDINGS:

The disclosure date referred to on page two, paragraph A.(7), was February 16, 2012.

Respondent admits that the following facts are true and that she is culpable of violations of the specified Rules of Professional Conduct:

FACTS

1. On June 16, 2009, Heykyung and Jongbo Kim hired Respondent for forensic debt mitigation services to be provided over a five year period to resolve the Kims' unsecured debt totaling over \$240,000. At the same time, the Kims hired Respondent for loan modification services on one of their real properties.

Debt Mitigation Services

2. Under the attorney-client agreement with Respondent for the debt mitigation program, the Kims were obligated to pay legal fees and other related fees in the amount of \$2,473.44 each month, and to accrue sufficient monies in an escrow account for Respondent to use to negotiate with the Kims' creditors. Pursuant to the agreement, the Kims were required to pay Respondent a total legal fee of \$36,066.60 for the debt mitigation services over the five year period.

3. During the first seven months of the program, the Kims paid Respondent legal fees of \$11,220.67 pursuant to the contract with Respondent.

4. In late 2009, the Kims learned that one of their major debts involving a corporation owned by the Kims was secured, and not subject to Respondent's debt mitigation services.

5. In January 2010, the Kims terminated Respondent and requested a full refund and an accounting of the \$11,220.67 they paid as legal fees to Respondent while they participated in the debt mitigation program.

6. Despite her receipt of the request for an accounting and a full refund, Respondent failed to provide the Kims with an accounting for her services related to the debt mitigation program until after she was contacted by the State Bar.

Loan Modification Services

7. Respondent was also hired to perform loan modification services for the Kims at the time they hired her for the debt mitigation services.

8. The Kims paid \$3,195 for the loan modification services to Respondent.

9. By January 2010, the Kims decided to forego the loan modification and to pursue instead a short sale of the real property which was the subject of the loan modification services.

10. On January 15, 2010, the Kims demanded a refund of \$1,597.50 for the loan modification services from Respondent, which they calculated to be half of the legal fees they paid Respondent.

11. Despite her receipt of the request for a refund for the loan modification services, Respondent failed to provide the Kims with an accounting for her services related to the loan modification until after she was contacted by the State Bar.

12. At the time the Kims terminated Respondent and requested a full refund for both the debt mitigation services and the loan modification services, Respondent's employee, Lynie Hjilmstad, provided the Kims with two mutual release forms, under which the Kims would agree to release all their claims or potential claims against Respondent for payment of \$1,300 and \$1,597.50, respectively.

13. The mutual releases were sent to the Kims on January 29, 2010 and February 4, 2010.

14. The mutual releases failed to provide the Kims with notice of their right to seek an independent lawyer's advice of the clients' choice about regarding the settlement.

CONCLUSIONS OF LAW

By failing to timely provide the Kims with an accounting at the time she was terminated for the debt mitigation services and loan modification services, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession in wilful violation of Rule of Professional Conduct 4-100(B)(3).

By providing to the Kims the two mutual releases that failed to give the required notice to the Kims of their right to seek the review of an independent lawyer of the settlement, Respondent attempted to settle a claim or potential claim for Respondent's liability to the client for Respondent's professional malpractice, without informing the client in writing that the client may seek the advice of an independent lawyer of the client's choice regarding the settlement and giving the client a reasonable opportunity to seek that advice in wilful violation of Rule of Professional Conduct 3-400(B).

AUTHORITIES SUPPORTING DISCIPLINE

STANDARDS FOR ATTORNEY SANCTIONS

To determine the appropriate level of discipline, the standards provide guidance. *Drociak v. State Bar* (1991) 52 Cal.3d 1085; *In the Matter of Sampson*, 3 Cal. State Bar Ct. Rptr. 119. A disciplinary recommendation must be consistent with the discipline in similar proceedings. See *Snyder v. State Bar* (1990) 49 Cal.3d 1302. Also, the recommended discipline must rest upon

a balanced consideration of relevant factors. *In the Matter of Sampson*, 3 Cal. State Bar Ct. Rptr. 119.

Pursuant to Standard 1.3 of the Standards for Attorney Sanctions for Professional Misconduct:

The primary purposes of disciplinary proceedings conducted by the State Bar of California and of sanctions imposed upon a finding or acknowledgment of a member's 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.

Pursuant to Standard 1.6(a) of the Standards for Attorney Sanctions for Professional Misconduct:

The appropriate sanction for an act of professional misconduct shall be set forth in the following standards for the particular act of misconduct found or acknowledged. 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 sanctions imposed shall be the more or the most severe of the different application sanctions.

Pursuant to Standard 2.2(b) of the Standards for Attorney Sanctions for Professional Misconduct:

Culpability of a member of commingling of entrusted funds or property with personal property or the commission of another 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.

Pursuant to Standard 2.10 of the Standards for Attorney Sanctions for Professional Misconduct:

Culpability of a member of a violation of any of the Business and Profession 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 purposes of imposing discipline set forth in standard 1.3.

Respondent violated Rule of Professional Conduct 4-100(B)(3), in delaying providing a refund to one client, and Rule of Professional Conduct 3-400(B), by failing to give notice to the clients of their right to seek the counsel of an independent attorney in deciding whether to settle their potential claims against Respondent. The courts have found that a sanction lesser than three months actual suspension is warranted in cases, such as here, where the Respondent's trust

account violation is technical in nature, or where Respondent has established significant mitigation. *In the Matter of Respondent E* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 716. Here, at the time of the delay in providing the accounting, Respondent was in the last part of her first pregnancy and then dealing with a newborn at home. She was taking time to be home with her new baby, and not in the office full-time for several months. She did belatedly provide the accounting to the clients.

The stipulated discipline of a one year stayed suspension is sufficient to advance the purposes of the imposition of attorney discipline in these matters.

FURTHER AGREEMENTS OF THE PARTIES

The factual statements contained in this Stipulation constitute admissions of fact and may not be withdrawn by either party, except with court approval.

COSTS


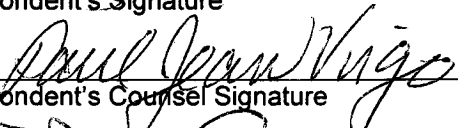
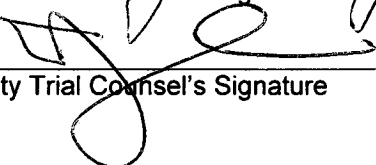
Respondent acknowledges that the Office of the Chief Trial Counsel has informed him that as of February 16, 2012, the estimated costs in this matter are \$3,500. Respondent further acknowledges that, should this Stipulation be rejected or should relief from the Stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

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In the Matter of: Audrey Marie Ritter	Case number(s): 10-O-04445
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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 Facts, Conclusions of Law, and Disposition.

<u>2-16-12</u> Date	<u></u> Respondent's Signature	<u>Audrey Marie Ritter</u> Print Name
<u>2/16/2012</u> Date	<u></u> Respondent's Counsel Signature	<u>Paul Jean Virgo</u> Print Name
<u>2-16-12</u> Date	<u></u> Deputy Trial Counsel's Signature	<u>Erin McKeown Joyce</u> Print Name

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In the Matter of: Audrey Marie Ritter	Case Number(s): 11-O-04445
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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.

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.)**

March 12, 2012
Date

Pat McElroy
Judge of the State Bar Court

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 San Francisco, on March 12, 2012, 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:

PAUL JEAN VIRGO
9909 TOPANGA BLVD #282
CHATSWORTH, CA 91311

- by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:

- by overnight mail at , California, addressed as follows:


- by fax transmission, at fax number . No error was reported by the fax machine that I used.

- By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

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

Erin Joyce, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on March 12, 2012.


George Hue
Case Administrator
State Bar Court