

(Do not write above this line.)

<p><b>State Bar Court of California</b>  <b>Hearing Department</b>  <b>Los Angeles</b>  <b>DISBARMENT</b></p>		
<p>Counsel For The State Bar</p> <p><b>Elizabeth Stine</b>  <b>Deputy Trial Counsel</b>  <b>845 S. Figueroa Street</b>  <b>Los Angeles, CA 90017</b>  <b>(213) 765-1342</b></p> <p>Bar # <b>256839</b></p>	<p>Case Number(s):  <b>14-O-00138</b></p>	<p>For Court use only</p> <div style="text-align: right; padding-right: 20px;"> <p><b>FILED</b></p> <p><b>JUN 09 2014</b></p> <p>STATE BAR COURT          CLERK'S OFFICE          LOS ANGELES</p> </div>
<p>In Pro Per Respondent</p> <p><b>Catherine Ann Moscarello</b>  <b>1442 Cornell Circle</b>  <b>Sugar Grove, IL 60554</b>  <b>(714) 505-2122</b></p> <p>Bar # <b>216384</b></p>	<p>Submitted to: <b>Assigned Judge</b></p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND          DISPOSITION AND ORDER APPROVING; ORDER OF          INVOLUNTARY INACTIVE ENROLLMENT</p> <p><b>DISBARMENT</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of:  <b>CATHERINE ANN MOSCARELLO</b></p> <p>Bar # <b>216384</b></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.**

kwiktag® 048 638 865



**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted **December 4, 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 resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **(10)** 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."

*(Handwritten initials)*

(Do not write above this line.)

- (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 to be awarded to the State Bar.
  - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
  - Costs are entirely waived.
- (9) ORDER OF INACTIVE ENROLLMENT:  
The parties are aware that if this stipulation is approved, the judge will issue an order of inactive enrollment under Business and Professions Code section 6007, subdivision (c)(4), and Rules of Procedure of the State Bar, rule 5.111(D)(1).

**B. Aggravating Circumstances [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(f) & 1.5]. Facts supporting aggravating circumstances are required.**

- (1)  **Prior record of discipline**
- (a)  State Bar Court case # of prior case **09-O-11594; et al.**
  - (b)  Date prior discipline effective **June 25, 2011**
  - (c)  Rules of Professional Conduct/ State Bar Act violations: **Rules of Professional Conduct, rules 3-110(A) [failure to perform with competence], 3-700(D)(2) [failure to refund unearned fees], 3-700(A)(2) [improper withdraw], 3-700(D)(1) [failure to release file], and Business and Professions Code sections 6068(m) [failure to respond to client inquiries] and 6068(i) [failure to cooperate in State Bar investigation].**
  - (d)  Degree of prior discipline **2 years suspension stayed, 3 years probation with conditions, 1 year actual suspension and until restitution is paid.**
  - (e)  If respondent has two or more incidents of prior discipline, use space provided below:  
**See Attachment at page 7.**
- (2)  **Dishonesty:** Respondent's misconduct was intentional, 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.

(Do not write above this line.)

- (5)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct. **See Attachment at page 8.**
- (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 at page 8.**
- (8)  **Restitution:** Respondent failed to make restitution. **See Attachment at page 8.**
- (9)  **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

**C. Mitigating Circumstances [see standards 1.2(g) & 1.6]. 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, the public, or the administration of justice.
- (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 with a good faith belief that was honestly held and reasonable.
- (8)  **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct respondent suffered extreme emotional difficulties or physical or mental 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 the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.
- (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 extraordinarily 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.

(Do not write above this line.)

---

(12)  **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by subsequent rehabilitation.

(13)  **No mitigating circumstances** are involved.

**Additional mitigating circumstances:**

(Do not write above this line.)

---

**D. Discipline: Disbarment.**

**E. Additional Requirements:**

- (1) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (2)  **Restitution:** Respondent must make restitution to **see Attachment at page 9** in the amount of \$ \_\_\_\_\_ plus 10 percent interest per year from \_\_\_\_\_. If the Client Security Fund has reimbursed \_\_\_\_\_ for all or any portion of the principal amount, respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5. Respondent must pay the above restitution and furnish satisfactory proof of payment to the State Bar's Office of Probation in Los Angeles no later than \_\_\_\_\_ days from the effective date of the Supreme Court order in this case.
- (3)  **Other:**

**ATTACHMENT TO**  
**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF:                                 CATHERINE ANN MOSCARELLO

CASE NUMBER:                                     14-O-00138

**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. 14-O-00138 (State Bar Investigation)

**FACTS:**

1. On June 28, 2012, Respondent entered into a Stipulation re Facts, Conclusions of Law and Disposition ("Stipulation") with the State Bar of California in Case No. 12-O-10063.
2. On July 6, 2012, the Hearing Department of the State Bar Court filed an Order Approving the Stipulation and recommending to the California Supreme Court the discipline set forth in the Stipulation.
3. On July 6, 2012, the Hearing Department's July 6, 2012 Order Approving the Stipulation was properly served by mail upon Respondent. Respondent received the order.
4. On November 6, 2012, the California Supreme Court filed an Order in Case No. S205042 (State Bar Court Case No. 12-O-10063) that Respondent be suspended from the practice of law for one (1) year, that execution of the suspension be stayed, and that Respondent be placed on probation for one (1) year subject to the conditions of probation recommended by the Hearing Department of the State Bar Court in its July 6, 2012 Order regarding the Stipulation ("Disciplinary Order").
5. Pursuant to the Disciplinary Order, Respondent was ordered to comply with the following relevant terms and conditions of probation, among others:
  - a. submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the condition period attached to the discipline, stating under penalty of perjury whether he has complied with the State Bar Act , the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. 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 condition period and no later than the last day of the condition period; and
  - b. provide satisfactory proof of restitution to the Office of Probation by June 4, 2013.

6. On November 6, 2012, the Clerk of the California Supreme Court properly served upon Respondent a copy of the Disciplinary Order. Respondent received the Disciplinary Order.

7. The Disciplinary Order became effective on December 6, 2013, thirty days after filing.

8. Respondent did not submit her quarterly report by the due date of April 10, 2013. Respondent filed the quarterly report on April 11, 2013.

9. Respondent did not submit her quarterly report by the due date of July 10, 2013. Respondent filed the quarterly report on August 7, 2013.

10. Respondent did not submit her quarterly report by the due date of October 10, 2013. Respondent filed the quarterly report on November 1, 2013.

11. Respondent did not submit her quarterly report by the due date of December 6, 2013. Respondent filed the quarterly report on December 26, 2013.

12. To date, Respondent has not submitted satisfactory proof of restitution payment to the Office of Probation.

#### CONCLUSIONS OF LAW:

13. By failing to timely submit quarterly reports due April, 10, 2013, July 10, 2013, October 10, 2013, and September 6, 2013; and by failing to provide satisfactory proof of restitution payments by June 4, 2013, Respondent failed to comply with all conditions attached to any disciplinary probation in willful violation of Business and Professions Code section 6068(k).

#### AGGRAVATING CIRCUMSTANCES.

**Prior Record of Discipline (Std. 1.5(a)):** On May 26, 2011, the California Supreme Court ordered, among other things, that Respondent be suspended from the practice of law for two (2) years, stayed, and that Respondent be placed on probation for three (3) years, subject to certain conditions including that she be actually suspended for one year and until she made restitution to eight (8) former clients in the total, principal sum of \$12,097. Respondent's misconduct included violations of the following Rules of Professional Conduct ("rule") and Business and Professions Code sections ("sections") in eight (8) client matters: (i) rule 3-110(A), failing to perform competently; (ii) rule 3-700(D)(2), failing to refund unearned fees to a client; (iii) rule 3-700(A)(2), improper withdrawal from employment with a client; (iv) rule 3-700(D)(1), failing to return a client file to a client; (v) section 6068(m), failing to communicate adequately with a client; and (vi) section 6068(i), failing to cooperate in a State Bar investigation. (Supreme Court Case No. S191623; State Bar Court Case Nos. 09-O 11594 (09-O-11951; 09-0-14461; 09-0-15562; 09-0-16259; 09-0-16858) 10-O-03447; 10-O09288.) Respondent committed the misconduct between 2007 and 2009.

In a second matter, on November 6, 2013, the California Supreme Court ordered, among other things, that Respondent be suspended from the practice of law for one (1) year, stayed, and that Respondent be placed on probation for one (1) year. Respondent's misconduct included violating Rules of Professional Conduct, rule 3-700(D)(2) for failing to refund unearned fees. (Supreme Court Case No. S205042; State Bar Court Case No. 12-O-10063.) Respondent committed the misconduct between 2007 and 2008.

**Indifference (Std. 1.5(g)):** Respondent failed to comply with probation despite reminders from the Office of Probation and despite filing of disciplinary charges. Respondent's continued non-compliance indicates an on-going indifference and lack of remorse. (*In the Matter of Meyer* (1997) 3 Cal. State Bar Ct. Rptr. 697, 702 [failure to belatedly file his probation report once he was aware of these proceedings establishes indifference towards rectification of or atonement for the consequences of his or her misconduct].)

**Multiple Acts of Misconduct (Std. 1.5(b)):** Respondent violated two conditions of her probation on multiple occasions constituting one violation of Business and Professions Code section 6068(k).

**Failure to Make Restitution (Std. 1.5(i)):** Respondent has failed to make restitution to her client in case nos. 09-O 11594, et al. and 12-O-10063.

#### **AUTHORITIES SUPPORTING DISCIPLINE.**

The Standards for Attorney Sanctions for Professional Misconduct "set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.1. All further references to Standards are to this source.) The Standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

Although not binding, the standards are entitled to "great weight" and should be followed "whenever possible" in determining level of discipline. (*In re Silvertown* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) If a recommendation is at the high end or low end of a Standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) "Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure." (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

In determining whether to impose a sanction greater or less than that specified in a given Standard, in addition to the factors set forth in the specific Standard, consideration is to be given to the primary purposes of discipline; the balancing of all aggravating and mitigating circumstances; the type of misconduct at issue; whether the client, public, legal system or profession was harmed; and the member's willingness and ability to conform to ethical responsibilities in the future. (Stds. 1.7(b) and (c).)

Standard 2.10 states "actual suspension is appropriate for failing to comply with a condition of discipline. The degree of sanction depends on the nature of the condition violated and the member's unwillingness or inability to comply with the disciplinary orders." However, Standard 1.8(b) states "if a member has two or more prior disciplines, disbarment is appropriate in the following circumstances:



1. Actual suspension was ordered in any of the prior disciplinary matters;
2. The prior disciplinary matters coupled with the current record demonstrate a pattern of misconduct; or
3. The prior disciplinary matters coupled with the current record demonstrate the member's unwillingness or inability to conform to ethical responsibilities.

Respondent has two prior disciplinary matters, one with one year of actual suspension, has demonstrated inattention to State Bar disciplinary proceedings, indifference to the terms underlying her grant of probation, and disregard of Supreme Court orders. In the present matter, Respondent has not timely complied with the terms of probation. Respondent failed to timely submit four (4) quarterly reports and failed to provide satisfactory proof of restitution payments. Respondent has demonstrated that she has been unable or unwilling to comply with conditions of probation and her ethical responsibilities.

In consideration of Standards 2.10 and 1.8(b), the type of misconduct and the aggravating circumstances discussed above, disbarment is appropriate to maintain high professional standards and preserve public confidence in the legal profession.

#### **RESTITUTION.**

Respondent will satisfy restitution as provide in Supreme Court Case No. S191623 (State Bar Court Case Nos. 09-O 11594; 09-O-11951; 09-0-14461; 09-0-15562; 09-0-16259; 09-0-16858; 10-O-03447; 10-O09288) and Supreme Court Case No. S205042 (State Bar Court Case No. 12-O-10063) as a condition of this stipulation.

#### **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of May 5, 2014, the prosecution costs in this matter are approximately \$3,419. 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.

#### **EXCLUSION FROM MCLE CREDIT**

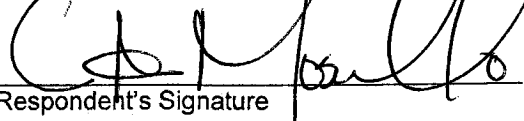
Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School, State Bar Client Trust Accounting School, and/or any other educational course(s) to be ordered as a condition of reproof or suspension. (Rules Proc. of State Bar, rule 3201.)

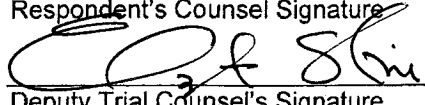
(Do not write above this line.)

In the Matter of: CATHERINE ANN MOSCARELLO	Case number(s): 14-O-00138
---	-------------------------------

**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.

5/21/14                                            Catherine Ann Moscarello  
Date                              Respondent's Signature                      Print Name

5-23-14                                            Elizabeth Stine  
Date                              Deputy Trial Counsel's Signature                      Print Name

(Do not write above this line.)

In the Matter of: CATHERINE ANN MOSCARELLO	Case Number(s): 14-O-00138
---	-------------------------------

### DISBARMENT 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.

*TYPOGRAPHICAL ERROR CORRECTION  
PAGE 7 - LAST PARAGRAPH - FIRST SENTENCE:  
DELETE - "NOVEMBER 6, 2013"  
INSERT - "NOVEMBER 6, 2012"*

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.)**

Respondent CATHERINE ANN MOSCARELLO is ordered transferred to involuntary inactive status pursuant to Business and Professions Code section 6007, subdivision (c)(4). Respondent's inactive enrollment will be effective three (3) calendar days after this order is served by mail and will terminate upon the effective date of the Supreme Court's order imposing discipline herein, or as provided for by rule 5.111(D)(2) of the Rules of Procedure of the State Bar of California, or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

JUNE 9, 2014  
Date

*[Signature]*  
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 Los Angeles, on June 9, 2014, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT**

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

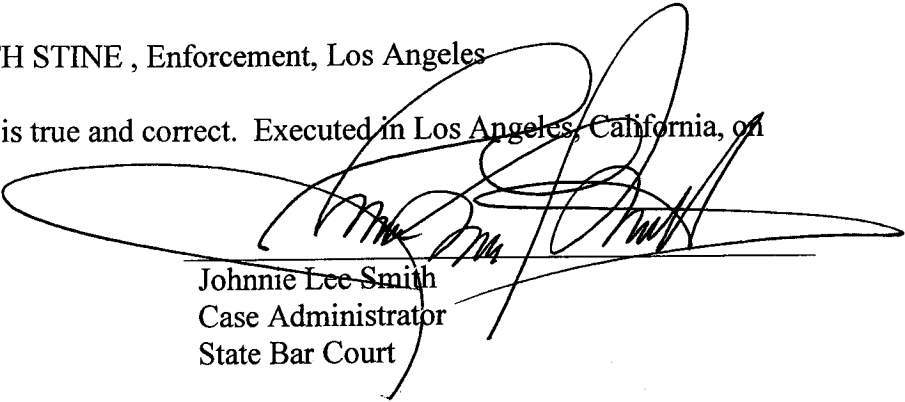
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

CATHERINE A. MOSCARELLO  
1442 CORNELL CIR  
SUGAR GROVE, IL 60554

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

ELIZABETH STINE , Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on June 9, 2014.



Johnnie Lee Smith  
Case Administrator  
State Bar Court