



(Do not write above this line.)

State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel For The State Bar Patrice Vallier-Glass Deputy Trial Counsel 845 S. Figueroa St. Los Angeles, CA 90017 (213) 765-1180 Bar # 305900	Case Number(s): 16-C-16226-PEM <div style="text-align: center; font-size: 24pt; font-weight: bold;">PUBLIC MATTER</div>	For Court use only <div style="text-align: center; font-size: 24pt; font-weight: bold;">FILED</div> <div style="text-align: center; font-size: 18pt; font-weight: bold;">APR 24 2018</div> STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
Counsel For Respondent Ellen A. Pansky Pansky Markle 1010 Sycamore Ave., Unit 308 South Pasadena, CA 91030 (213) 626-7300 Bar # 77688	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: ENID PEREZ Bar # 216445 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 **December 3, 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 **13** 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."

 17
 19-18

(Do not write above this line.)

- (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):
 - Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: **the three membership years following the Supreme Court order in this case.** (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 [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(h) & 1.5]. Facts supporting aggravating circumstances are required.

- (1) **Prior record of discipline**
 - (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.
- (2) **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by, misrepresentation.
- (4) **Concealment:** Respondent's misconduct was surrounded by, or followed by, concealment.
- (5) **Overreaching:** Respondent's misconduct was surrounded by, or followed by, overreaching.
- (6) **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.

(Do not write above this line.)

- (7) **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.
- (8) **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice. **See page 9.**
- (9) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (10) **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11) **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. See page 9.
- (12) **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) **Restitution:** Respondent failed to make restitution.
- (14) **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standards 1.2(i) & 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 likely to recur.
- (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 or to the State Bar during disciplinary investigations and proceedings.
- (4) **Remorse:** Respondent promptly took objective steps demonstrating spontaneous 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 objectively 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

51
-19-18

(Do not write above this line.)

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.
See pages 9-10.
- (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:

No Prior Record of Discipline, see page 9.
Extreme Emotional Difficulties, see page 9.
Community Service and Pro Bono Activities, see page 10.
Pretrial Stipulation, see page 10.

D. Discipline:

- (1) **Stayed Suspension:**
- (a) Respondent must be suspended from the practice of law for a period of **three years**.
- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general law pursuant to standard 1.2(c)(1) 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:
- (b) The above-referenced suspension is stayed.
- (2) **Probation:**
- Respondent must be placed on probation for a period of **three years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)
- (3) **Actual Suspension:**
- (a) Respondent must be actually suspended from the practice of law in the State of California for a period of **18 months**.

(Do not write above this line.)

- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general law pursuant to standard 1.2(c)(1), 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:

E. Additional Conditions of Probation:

- (1) 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 present learning and ability in the general law, pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct.
- (2) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (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 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.
- (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.

ST
-19-18

- No Ethics School recommended. Reason: .
- (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:
- | | |
|---|---|
| <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 during the period of actual suspension or within one year, whichever period is longer. **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) **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.
- (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 requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension: .
- (5) **Other Conditions:**

JT
-19-18

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: ENID PEREZ

CASE NUMBER: 16-C-16226

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that the facts and circumstances surrounding the offense for which she was convicted involved moral turpitude.

Case No. 16-C-16226 (Conviction Proceeding)

PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING:

1. This is a proceeding pursuant to sections 6101 and 6102 of the Business and Professions Code and rule 9.10 of the California Rules of Court.

2. On April 17, 2017, the Fresno County District Attorney filed a First Amended Felony Complaint in Fresno County Superior Court, case no. F16905280, charging respondent with a one count violation of Unemployment Insurance Code, section 2117 [Failure to File or Supply Information; False or Fraudulent Report], a misdemeanor.

3. On April 20, 2017, the court entered respondent's plea of nolo contendere to Count 1 of the Amended Complaint, Unemp. Ins. Code, section 2117 [Failure to File or Supply Information; False or Fraudulent Report].

4. At the time of the entry of the plea, the court suspended respondent's sentence for two years and placed respondent on two-years' probation with conditions including confinement for one day in Fresno County jail, 40 hours of community service, and payment of certain fees and fines. However, respondent did not serve any time in Fresno County jail; instead, respondent was processed and immediately released.

5. On August 11, 2017, the State Bar Court Review Department issued an order referring the matter to the Hearing Department for a hearing and decision recommending the discipline to be imposed in the event that the Hearing Department finds that the facts and circumstances surrounding the offense for which respondent was convicted involved moral turpitude or other misconduct warranting discipline.

FACTS:

6. In September 2011, respondent's then-employer laid her off. Respondent then presented a claim to the Employment Development Department ("EDD") for Unemployment Insurance (UI) benefits.

7. Individuals laid off by an employer are eligible to claim Unemployment Insurance (UI) benefits through the EDD's Unemployment Insurance program. After EDD accepts a UI claim, the

57
-19-18

claimant is required on a weekly or bi-monthly basis to verify his or her continued unemployment by submitting a continued claim form (CCF).

8. On October 3, 2011, respondent applied for UI benefits online through the EDD E-Apply program.

9. During the week ending October 15, 2011, respondent's UI benefits commenced, and continued through the week ending April 7, 2012. Respondent received a total of \$11,700 in benefits on her claim. Respondent completed and submitted 14 CCFs related to the claim.

10. Respondent also received two extensions on her claim. During the first extension, week-ending April 14, 2012 through week-ending August 25, 2012, respondent received \$9,000 in benefits. Respondent completed and submitted 10 CCFs related to the first extension.

11. During the second extension, week-ending September 1, 2012 through week-ending September 22, 2012, respondent received \$5,850 in benefits. Respondent completed and submitted three CCFs related to the second extension.

12. From October 2, 2011 through September 30, 2012, during the period in which respondent claimed UI benefits, the State Center Community College District employed respondent as a part-time instructor. During this same period, respondent received pay from State Center Community College District for services rendered.

13. From August 2011 to May 2012, during the period in which respondent claimed UI benefits, California State University, Fresno employed respondent as a temporary lecturer. During this same period, respondent received pay from California State University, Fresno for services rendered.

14. Question No. 6 on the CCF asks, "Did you work or earn any money, WHETHER YOU WERE PAID OR NOT?" (Emphasis in original.)

15. Respondent responded "No" to question No. 6, and she failed to report any work or earnings on each of the 27 CCFs that she completed and submitted between October 16, 2011 and October 7, 2012.

16. Respondent signed her name below the following statement on every CCF she submitted:

I understand the questions on this form. I know the law provides penalties if I make false statements or withhold facts to receive benefits; my answers are true and correct. I declare under penalty of perjury that I am a U.S. citizen or nationalist; or an alien in satisfactory immigration status and permitted to work by USCIS. I certified the form after the later date for which I am claiming benefits.

17. Respondent received a total of \$13,809 in overpayment during the period in which she failed to disclose to EDD her employment by the State Center Community College District and California State University, Fresno. Respondent returned the \$13,809 at her criminal sentencing, along with a 30% administrative penalty.

NT
79-18

CONCLUSION OF LAW:

18. The facts and circumstances surrounding the above-described violation(s) involved moral turpitude.

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Wrongdoing (Std. 1.5(b)): Respondent repeated the act of falsely certifying her benefit claim forms 27 times over the course of 11 months, which aggravates her misconduct.

Significant Harm (Std. 1.5(j)): Respondent received \$13,809 in improper benefits and did not return any of the money until after criminal charges were pending against her.

MITIGATING CIRCUMSTANCES.

No Prior Record of Discipline: Respondent was admitted to practice in December 2001 and has no prior record of discipline. The absence of a prior disciplinary record for approximately 10 years prior to the criminal misconduct entitles respondent to significant mitigation. (See *Hawes v. State Bar* (1990) 51 Cal. 3d 587, 596 [more than 10 years of discipline-free practice entitled to “significant mitigation”].)

Extreme Emotional Difficulties: Respondent’s therapist stated that respondent is diagnosed with major clinical depression, and that prior to respondent’s criminal misconduct, respondent was engaged in talk therapy and a medication plan. Respondent’s therapist further reported that in September 2011, respondent lost her health insurance and access to her medications. He further reported that the full expression of respondent’s emerging illness impacted her mood and judgment resulting in respondent’s violation of the law beginning in October 2011. Respondent’s therapist reported that respondent’s ability to resume her medications, and respondent’s realization that respondent violated her own values, led respondent to resume therapy in November 2015. Respondent’s therapist opined that respondent has full realization of the chronic nature of her illness and of the severe consequences her illness can have if she discontinues her medication. Given that respondent can establish through her therapist that her psychological condition contributed to her criminal misconduct but that she has resumed therapy and medication management, she is entitled to mitigation. (See *In the Matter of Moriarty* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 245, 251 [where the Review Dept. found that attorney’s extreme emotional difficulties, family pressures and personality factors affected attorney and caused the attorney’s exercise of bad judgment, and psychologist’s report stated that attorney had learned to deal with negative situations such as that he experienced at the time of his misconduct].)

Extraordinarily Good Character (Std. 1.6(f)): Respondent provided 10 letters attesting to her good moral character. One attorney, who has known respondent for over 30 years, attested to respondent’s tenacity, focus and her commitment to advocate for those in disenfranchised and underserved communities. The attorney also stated that respondent’s conduct was uncharacteristic of respondent.

Respondent’s former colleague, who met respondent while she worked at Central Valley AIDS Team, attested that he has known respondent for over 20 years and that she has performed pro bono appeal work for him. He also stated that, despite respondent’s bad judgment that led to her criminal matter, respondent has good moral character in that she is honest, reliable, candid, and genuine.

Another friend and colleague, who has known respondent for over 30 years, stated that respondent's misconduct is an anomaly and that she knows respondent to be an honest person committed to social justice and helping the most vulnerable sectors our society. Similarly, a former co-worker stated that he still holds respondent in high esteem and knows her to have great moral character despite the poor judgment that led to respondent's conviction. He further stated that respondent accepted responsibility for her judgment and is remorseful. Another former co-worker, with whom respondent worked with at three social services agencies, has known respondent for 26 years. She stated that respondent's conviction has not changed how she views respondent's character and that respondent is a good person who has a history of helping at-risk populations.

A community activist and colleague, who has known respondent for over 20 years, stated that respondent has integrity, and that she has expressed remorse and accepted full responsibility for her lapse in judgment. A professor, with whom respondent previously worked and who has known respondent for 17 years, stated that respondent has a record of advocating for people from a diverse array of life paths and that when discussing respondent's misconduct, respondent immediately accepted responsibility for her behavior.

Respondent's cousin, a doctor, attested that respondent has a good nature, high morals, a willingness to help others, and has volunteered for social agencies. He also stated that respondent has acknowledged the impulsive behavior that contributed to her criminal matter and is currently undergoing treatment. Respondent's parents and sister further attested to respondent's honesty and stated that she has performed pro bono work for people in need. They also stated that respondent is remorseful and accepts full responsibility for her criminal conduct.

Community Service and Pro Bono Activities: Respondent has also been involved in significant volunteer work since 1990. Most recently, respondent served on the California Court of Appeals Pro Bono Panel, served as an arbitrator for the Better Business Bureau and served as an ombudsman for the Fresno-Madera Long Term Care Ombudsman Program. Respondent is also a certified foster parent. (See *In the Matter of Respondent E* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 716, 729 [evidence of attorney's extensive pro bono activities and community involvement was mitigating].)

Pretrial Stipulation: By entering into this stipulation, respondent has acknowledged misconduct and is entitled to mitigation for recognition of wrongdoing and saving the State Bar significant resources and time. (See *Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability]; *In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521 [where the attorney's stipulation to facts and culpability was held to be a mitigating circumstance].)

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.)

JT
1-19-18

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).)

A record of conviction is conclusive evidence of guilt of the crime. (Bus. & Prof. Code 6101 (a)). Thus, respondent’s conviction of violating Unemp. Ins. Code, section 2117 is conclusive proof that respondent failed to file a return or report; failed to supply information required by the Code; made, rendered, signed or verified a false or fraudulent return, report, or statement; or supplied false or fraudulent information. While violation of Unemp. Ins. Code, section 2117 is not a crime of moral turpitude *per se*, respondent’s conduct involved moral turpitude given that respondent collected unemployment insurance benefits for 11 months based on providing false information that she, at a minimum, should have known was false. Respondent’s gross neglect in failing to report her part-time employment to EDD resulted in multiple misrepresentations to EDD and EDD paying respondent \$13,809 to which respondent was not entitled.

Standard 2.15(c) indicates that disbarment or actual suspension is the presumed sanction for final conviction of a misdemeanor involving moral turpitude. Respondent’s criminal misconduct exhibited her failure to conform to ethical standards of attorneys and is aggravated by the repeated times she made misrepresentations to EDD and the significant harm it caused the public. However, respondent’s misconduct is mitigated by extreme emotional difficulties which affected her judgment at the time she submitted fraudulent information. In addition, respondent’s lack of a prior disciplinary record in 10 years of practice, evidence of her good character and community service, that fact that she returned all of the funds improperly received along with a 30% penalty, and her decision to enter into a pretrial stipulation, are all mitigating circumstances. Therefore, respondent’s misconduct warrants a substantial period of actual suspension rather than disbarment. Accordingly, three years’ stayed suspension and three years’ probation with conditions including 18-months’ actual suspension is appropriate.

Case law supports this level of discipline. *In the Matter of Lybbert* (1993) 2 Cal. State Bar Ct. Rptr. 297 involved a misdemeanor conviction for welfare fraud where Lybbert failed to disclose his monthly earnings for 15 months, which resulted in the Department of Public Social Services (DPSS) overpaying Lybbert approximately \$10,000 in cash and food stamps. (*Ibid.*) In mitigation, Lybbert was open, candid and took full responsibility during the DPSS investigation, stipulated to most of the facts at the State Bar hearing, paid a \$7,000 in restitution by the time of his State Bar Court trial, and participated in church and volunteer work. The court also afforded nominal weight to Lybbert’s good character attestations. (*Id.* at pp. 303-304.) Following a standards-based analysis, the court imposed three years’ stayed suspension, three years’ probation and two years’ actual suspension noting that, since

w τ
1-19-18

Lybbert's misconduct occurred before he was admitted to practice law, Lybbert would have presumably been denied admission and thus required to wait two years to reapply. (*Id.* at p. 307.) In addition, the standards at the time called for a minimum of two years' suspension for a final conviction of a crime of moral turpitude, regardless of mitigating circumstances.

In the present matter, respondent's criminal misconduct is similar to Lybbert's in that each falsely reported that they did not receive any income in order to receive government benefits to which they would otherwise not be entitled. Respondent's 10-year discipline-free history prior to her misconduct coupled with the emotional difficulties she experienced at the time she filed false forms with EDD warrant a lower level of discipline than that in *Lybbert*. Thus, three years' stayed suspension with conditions including three years' probation on condition of 18-months' actual suspension is appropriate in order to protect the public, the courts and the legal profession, maintain the highest of professional standards, and preserve public confidence in the legal profession.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of April 18, 2018, the discipline costs in this matter are \$5,640. 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 MINIMUM CONTINUING LEGAL EDUCATION ("MCLE") CREDIT.

Respondent may not receive MCLE credit for completion of State Bar Ethics 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.)

WT
1-19-18

(Do not write above this line.)

In the Matter of: ENID PEREZ	Case number(s): 16-C-16226-PEM
--	--

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>4-18-18</u> Date	<u><i>Enid Perez</i></u> Respondent's Signature	<u>Enid Perez</u> Print Name
<u>4/19/18</u> Date	<u><i>Ellen Pansky</i></u> Respondent's Counsel Signature	<u>Ellen Pansky</u> Print Name
<u>4/19/18</u> Date	<u><i>Patrice Vallier-Glass</i></u> Deputy Trial Counsel's Signature	<u>Patrice Vallier-Glass</u> Print Name

(Do not write above this line.)

In the Matter of: ENID PEREZ	Case Number(s): 16-C-16226-PEM
---------------------------------	-----------------------------------

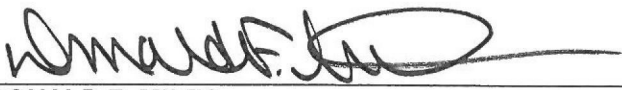
ACTUAL SUSPENSION ORDER

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.)**

4/23/18
Date


DONALD F. MILES
Judge of the State Bar Court

T
19-18

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Court Specialist 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 April 24, 2018, 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:

ELLEN ANNE PANSKY
PANSKY MARKLE ATTORNEYS
AT LAW
1010 SYCAMORE AVE UNIT 308
S PASADENA, CA 91030 - 6139

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

Patrice N. Vallier-Glass, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on April 24, 2018.


Laurretta Cramer
Court Specialist
State Bar Court