

(Do not write above this line.)

State Bar Court of California  
Hearing Department  
Los Angeles  
ACTUAL SUSPENSION

**PUBLIC MATTER**

<p>Counsel For The State Bar</p> <p><b>Shataka Shores-Brooks</b> Senior Trial Counsel 845 S. Figueroa Street Los Angeles, CA 90017 213-765-1091</p> <p>Bar # 240392</p>	<p>Case Number(s): 16-O-10488-CV 16-O-11261</p>	<p>For Court use only</p> <p><b>FILED</b> P.B. <b>MAR 08 2018</b> STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>Counsel For Respondent</p> <p><b>James I. Ham</b> Law Office of James I. Ham 655 N. Central Ave., Floor 17 Glendale, CA 91203-1439 818-649-7800</p> <p>Bar # 100849</p>	<p>Submitted to: <b>Settlement Judge</b></p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p><b>ACTUAL SUSPENSION</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: <b>BRENDA ELIZABETH VARGAS</b></p> <p>Bar # 153230</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 **June 11, 1991**.
- (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 **15** 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."



(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: **three billing cycle following the effective date of the Supreme Court order.** (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 **95-O-17596**
- (b)  Date prior discipline effective **February 2, 1998**
- (c)  Rules of Professional Conduct/ State Bar Act violations: **RPC 4-100(B)(3); RPC 3-700(A)(2); and RPC 3-700(D)(2).**
- (d)  Degree of prior discipline **18 months suspension, stayed, two years probation, and 60 days actual suspension. See page 9 and Exhibit 1 (14pages).**
- (e)  If Respondent has two or more incidents of prior discipline, use space provided below.
- State Bar Court case # of prior case: 97-O-17246; 97-O-17250; 98-O-01209; 98-O-01446; 98-O-01545; 98-O-03202; 98-O-03320; 99-O-10127; 99-O-12055 (Cons.)
- Date prior discipline effective: September 30, 2001
- Rules of Professional Conduct/ State Bar Act violations: B&P 6068(a); B&P 6068(k); B&P 6106; RPC 3-110(A); RPC 3-700(D)(2).
- Degree of prior discipline: Two years suspension, stayed, three years probation, and nine months actual suspension. See pages 9-10 and Exhibit 2 (20 pages).
- (2)  **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.

(Do not write above this line.)

---

- (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.
- (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.
- (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 10.
- (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. **See page 10.**
- (5)  **Restitution:** Respondent paid \$ \_\_\_\_\_ on \_\_\_\_\_ in restitution to \_\_\_\_\_ without the threat or force of disciplinary, civil or criminal proceedings.

(Do not write above this line.)

---

- (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 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 page 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:**

**Pro Bono Work, 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 **one year**.
- 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 **two years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

(Do not write above this line.)

(3)  **Actual Suspension:**

- (a)  Respondent must be actually suspended from the practice of law in the State of California for a period of **30 days**.
- 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

(Do not write above this line.)

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: .
- (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:**

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

IN THE MATTER OF:                      BRENDA ELIZABETH VARGAS

CASE NUMBERS:                        16-O-10488 and 16-O-11261

**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. 16-O-104887 (State Bar Investigation)

FACTS:

1. On May 6, 2015, respondent filed a petition for reconsideration on behalf of Rocio Lumbrano ("applicant") seeking reconsideration of the Order Approving Compromise and Release ("Compromise Order"), in Worker's Compensation Appeals Board ("WCAB") case numbers ADJ8004557, ADJ8489417, and ADJ8004568.
2. Respondent did not file a substitution of attorney and the applicant did not file for dismissal of her attorney of record.
3. Respondent was advised by the worker's compensation administrative law judge ("WCJ") and the WCAB that she could not act as an attorney without a substitution of attorney on file.
4. On June 30, 2015, the WCAB issued a Notice of Intention ("NIT") to issue sanctions up to \$1,500, plus costs, and attorney's fees against respondent.
5. In the June 30, 2015, Opinion and Orders Dismissing Petition For Reconsideration; Granting Removal on Board Motion and Notice of Intention to Issue Sanctions, the WCAB stated, "Ordinarily, we would end our analysis at this point. However, upon review of the public record, we note that Ms. Vargas has a history of misconduct."
6. Respondent did not respond to the NIT.
7. On August 19, 2015, the WCAB found that "Ms. Vargas lacked standing to bring her petition for reconsideration because she did not represent applicant at the time that she filed the petition. Additionally, Ms. Vargas did not review the record prior to filing her petition, nor did she cite to the record at any point within her petition. Lastly, Ms. Vargas filed a petition for reconsideration that was clearly time-barred. Ms. Vargas' filing of her petition for reconsideration in this matter was frivolous, and we will issue a sanction of \$1,500 payable to the Workers' Compensation Appeals Board to be transmitted to the General Fund."
8. On August 19, 2015, the WCAB ordered respondent to pay sanctions in the amount of \$1,500.

9. Respondent had until September 14, 2015, in which to pay the sanctions.
10. Respondent was served with the order on August 19, 2015, and respondent received it.
11. Respondent did not pay the sanctions order by its due date, September 14, 2015.
12. On December 15, 2015, the WCAB sent a letter to respondent informing her that the sanctions order was outstanding.
13. Respondent received the December 15, 2015 letter from the WCAB.
14. On December 30, 2015, respondent paid the sanctions order in full.
15. Respondent did not report the imposition of the \$1,5000 sanction to the State Bar by September 18, 2015, or at any time.

#### CONCLUSIONS OF LAW:

16. By failing to pay sanctions in the amount of \$1,500 between September 14, 2015 and December 30, 2015 imposed on respondent by the Worker's Compensation Appeals Board on August 19, 2015 in case numbers ADJ8004557, ADJ8489417, and ADJ8004568, respondent willfully violated Business and Professions Code section 6103.
17. By failing to report to the State Bar the \$1,500 sanction imposed on respondent on August 19, 2015 in connection with Worker's Compensation Appeals Board case numbers ADJ8004557, ADJ8489417, and ADJ8004568, respondent willfully violated Business and Professions Code section 6068(o)(3).

#### Case No. 16-O-11261 (Complainant: Aura Marroquin)

#### FACTS:

18. On or about May 12, 2014, Aura Marroquin ("CW") hired respondent for a loan modification appeal.
19. On or about May 12, 2014, respondent was paid \$500 for the loan modification appeal.
20. The loan modification process was not completed until January 2016.
21. During the course of the representation, CW gave respondent permission to deal with her son-in-law Ron Azzolina for all matters related to CW's matter.
22. On February 10, 2016, CW sent a letter to respondent requesting return of the client file.
23. On May 12, 2016, Ron Azzolina sent a letter to respondent requesting return of the client file and requesting a refund.
24. Respondent released the client file on or about August 10, 2016.



25. In February 2018, respondent refunded \$500 to Aura Marroquin.

#### CONCLUSIONS OF LAW:

26. By failing to provide the client with a separate agreement in not less than 14-point bold type, as required by Civil Code section 2944.6, prior to entering into an agreement to perform loan modification services or other form of mortgage loan forbearance, respondent willfully violated Business and Professions Code section 6103(a).

27. By failing to promptly return Aura Marroquin's client file, after respondent's representation had been terminated and as requested by Aura Marroquin on February 10, 2016 and May 12, 2016, respondent willfully violated Rules of Professional Conduct, rule 3-700(D)(1).

28. By collecting \$500 to perform a mortgage loan modification or other mortgage loan forbearance services, before respondent had fully performed each and every service respondent had been contracted to perform, respondent willfully violated Business and Professions Code section 6068(a).

29. By collecting \$500 to perform a mortgage loan modification or other mortgage loan forbearance services, before respondent had fully performed each and every service respondent had been contracted to perform, in violation of Civil Code section 2944.7, respondent collected an illegal fee and willfully violated Rules of Professional Conduct, rule 4-200(A).

#### AGGRAVATING CIRCUMSTANCES.

**Prior Record of Discipline (Std. 1.5(a)):** Respondent has two (2) prior records of discipline. In case number 95-O-17596, effective February 26, 1998, the California Supreme Court ordered that Respondent be suspended from the practice of law in California for eighteen (18) months, with execution of that period of suspension stayed, and that she be placed on probation for two (2) years subject to certain conditions, including sixty (60) days actual suspension and until she makes restitution in the amount of \$7,441.00, plus interest. Respondent's misconduct consisted of violations of Rules of Professional Conduct, rule 4-100(B)(3) (failure to render accounting), rule 3-700(A)(2) (improper withdrawal), and rule 3-700(D)(2) (failure to return unearned fees. Respondent's misconduct occurred between September 1994 and April 1996. Respondent received mitigation credit for no prior record of discipline, candor and cooperation, remorse and payment of restitution. There were no aggravating circumstances.

In case numbers 97-O-17246; 97-O-17250; 98-O-01209; 98-O-01446; 98-O-01483; 98-O-01545; 98-O-03205; 98-O-03320; 99-O-10127; 99-O-12055(Cons.), effective September 30, 2001, the California Supreme Court ordered that Respondent be suspended from the practice of law in California for two (2) years, with execution of that period of suspension stayed, and that she be placed on probation for three (3) years subject to certain conditions, including nine (9) months actual suspension. Respondent's misconduct consisted of seven (7) violations of Business and Professions Code sections 6068(a) (failure to support the Constitution and laws); five (5) violations of Business and Professions Code section 6068(k) (failure to comply with the conditions of probation); two (2) violations of Rules of Professional Conduct, rule 3-110 (failure to perform with competence); one (1) violation of Business and Professions Code section 6106 (misrepresentation); and one (1) violation of Rules of Professional Conduct, rule 3-700(D)(2) (failure to return unearned fees). Respondent's misconduct occurred between June 1997 and

August 1998. Respondent received mitigation credit for candor and cooperation. Respondent's prior record of discipline was an aggravating circumstances.

**Multiple Acts of Misconduct.** Respondent's failure to obey a court order, failure to report the sanctions to the State Bar, failure to promptly return an client file, failure to support the laws of this state, failure to comply with civil Code section 2944.6, and collecting an illegal fee evidences multiple acts of wrongdoing. (*In the Matter of Elkins* (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr 160, 168.)

#### **MITIGATING CIRCUMSTANCES.**

**Good Character (Std. 1.6(f)):** Respondent has provided evidence of seven individuals willing to attest to her good character, including two attorneys, three friends, two former clients, and one friend/former client. They have known respondent for significant periods of time, are aware of the full extent of the misconduct, and attested to their belief in respondent's good character and her ability as an attorney.

**Pro Bono Work:** Respondent provided evidence of the pro bono services she provided clients over the past five years. Three of respondent's character references also provided information concerning pro bono services that respondent has provided to them and/or the community. These services include assisting low-income families with legal services in criminal and civil law. Respondent also provided evidence of her significant community involvement in her children's schools over the past ten years. Pro bono work and community service may mitigate an attorney's misconduct and respondent should receive mitigation for her pro bono work. (*Calvert v. State Bar* (1991) 54 Cal.3d 765, 785.)

**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. (*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].)

**Remorse (Std. 1.6(g)):** Respondent has shown remorse. Respondent paid the \$1,500 sanction within 15 days after the WCAB notified her that the sanction was outstanding. Respondent paid the sanction prior to the State Bar's involvement.

#### **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 Silverton* (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).)

In this matter, respondent admits to committing six acts of professional misconduct. Standard 1.7(a) requires that where a respondent “commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed.”

The most severe sanction applicable to respondent’s misconduct is found in standard 2.12, which applies to respondent’s violation(s) of Business and Professions Code section 6103.

Standard 2.12 provides that disbarment or actual suspension is the presumed sanction for disobedience or violation of a court order related to the member’s practice of law, the attorney’s oath, or the duties required of an attorney under Business and Professions Code section 6068(a)(b)(d)(e)(f) or (h).

Since respondent has two prior records of discipline, Standard 1.8(b) must be considered. Standard 1.8(b) states:

If a member has two or more prior records of discipline, disbarment is appropriate in the following circumstances, unless the most compelling mitigating circumstances clearly predominate or the misconduct underlying the prior discipline occurred during the same time period as the current misconduct:

1. Actual suspension was ordered in any one 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.

However, case law supports the proposition that not every case in which Standard 1.8(b) applies is automatically appropriate for disbarment, and in the instant matter, a deviation from Standard 1.8(b) is permissible. Notwithstanding its unequivocal language to the contrary, it has long been established by the California Supreme Court that disbarment is not always mandated under Standard 1.8(b) (and its

predecessor, Standard 1.7(b)), even where there are no compelling mitigating circumstances that predominate in a case. (*Conroy v. State Bar* (1991) 53 Cal.3d 495, 506-507 [attorney found to have abandoned a client and had two prior records of discipline, including a private reproof and a sixty-day actual suspension, with aggravation for failing to cooperate, and no evidence of mitigation presented, but a one year actual suspension imposed rather than disbarment].)

Looking to the first factor in Standard 1.8(b), while respondent has previously received discipline including 60 day and nine month periods of actual suspension, the Review Department has instructed that, "[m]erely declaring that an attorney has [multiple] impositions of discipline, without more analysis, may not adequately justify disbarment in every case." (*In the Matter of Miller* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 131,136.) Disbarment recommendations under Standard 1.8(b) should not be made solely on the number of times a respondent has been disciplined without giving due regard for the nature and extent of respondent's prior records of discipline and the facts and circumstances of the present misconduct. (*In the Matter of Meyer* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 697, 704; see also *Howard v. State Bar* (1990) 51 Cal.3d 215, 221-222 [court not bound to follow Standards in a "talismatic" fashion, allowing for findings "with considerations peculiar to the offense and the offender"].)

This then requires consideration of the latter two factors in Standard 1.8(b), which do not necessarily mandate respondent's disbarment. The current misconduct involves acceptance of an illegal fee for loan modification services in one client matter and failure to return the client's file in the same client matter. Respondent's prior disciplines involved serious misconduct including multiple performance violations, multiple violations of engaging in the unauthorized practice of law, a moral turpitude violation, and multiple probation violations. Respondent's misconduct is not escalating; the current misconduct, although serious, is less egregious than her prior misconduct. As such, deviation from disbarment under Standard 1.8(b) is permissible, but respondent's prior misconduct is relevant to determine where along a continuum the level of discipline should be fixed.

Pursuant to Standard 1.8(a), if a member has a prior record of discipline, the sanction must be greater than the previously imposed sanction unless the prior discipline was so remote in time and the previous misconduct was not serious enough that imposing greater discipline would be manifestly unjust.

The exception to Standard 1.8(a) requires not only remote prior discipline, but also that the prior misconduct "was not serious enough that imposing greater discipline would be manifestly unjust." (*In re Silverton* (2005) 36 Cal.4th 81, 91 [requirement for the exception to progressive discipline is stated in the conjunctive].) The Standards do not provide guidance as to when misconduct is not sufficiently "serious enough" to warrant progressive discipline. However, a review of relevant case law suggests that remote prior discipline is "not serious enough" for purposes of the exception to Standard 1.8(a) when the prior misconduct is markedly different from the subsequent misconduct.

*In the Matter of Hanson* (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 703 is illustrative. In that case, the court declined to impose progressive discipline where the attorney's prior misconduct occurred 17 years before and the prior misconduct of failure to perform services competently, failure to communicate and failure to release a client's file was "minimal in nature." (*Id.* at p. 712.) Significantly, the court reasoned that former 1.7(a) (current 1.8(a)) was inappropriate because the prior misconduct was unrelated to the attorney's subject misconduct of failure to return unearned fees and failure to take steps to avoid prejudice upon withdraw. (*Id.* at p. 713.) The court stated that it would be "manifestly unjust" to impose progressive discipline, in part, because the attorney's prior misconduct "involved acts for which [he] was found not culpable in the present matter." (*Id.*) Similarly, in cases where

progressive discipline is imposed, the court on occasion cites the similarity between prior and current misconduct as justification for imposing Standard 1.8(a) (or former Standard 1.7(a)). (*See, In the Matter of Layton* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 366, 380 [the attorney's misconduct warranted greater discipline under Standard 1.7(a) "[b]ecause of the similarity between the past and present misconduct..."]; *In re Gadda* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416 [the court stated that "particularly because the prior misconduct was very similar to that found in the present case, respondent's prior record of discipline must be considered to be a serious aggravating circumstance, made even more serious as the prior discipline ... did not serve to rehabilitate respondent and prevent the [subsequent] misconduct].) Therefore, although not an articulated element of the exception to Standard 1.8(a), the similarity between prior and current misconduct is an appropriate factor to analyze whether prior misconduct is "serious enough" to justify progressive discipline.

The purpose of progressive discipline under standard 1.8(a) is to deter future misconduct by addressing a recidivist's current wrongdoing with appropriate discipline that is greater than in the previous case. (*See e.g. In re Gadda, supra*, 4 Cal. State Bar Ct. Rptr. 416.) The policy behind the rule is especially pronounced when the prior and current misconduct are similar in nature. Where prior and current misconduct are very dissimilar in nature, the policy behind progressive discipline is rendered somewhat less applicable.

Respondent's misconduct in her first discipline occurred 21 years ago and her misconduct in her second discipline occurred 19 years ago. Although respondent's misconduct was serious and nine months actual suspension was imposed, the current misconduct is not similar to the past misconduct.

In the present case, respondent clearly meets the first prong of the exception to progressive discipline because her prior misconduct was remote in time. Respondent further meets the second prong because the lack of similarity between her current and prior disciplinary matters makes the prior discipline "not serious enough" to impose Standard 1.8(a). This is not to say that respondent's prior discipline was not serious in nature, but rather that it was not "serious enough" to impose progressive discipline. Declining to impose Standard 1.8(a) in this case is recognition that the severity of prior misconduct is determined, in part, retrospectively and depending on whether subsequent misconduct demonstrates that respondent did not learn from prior discipline. (*In Matter of Gadda, supra*, at 443 [earlier discipline considered serious aggravation where prior and present misconduct very similar because prior discipline did not rehabilitate].) Here, respondent committed serious ethical violations nearly two decades ago; there is nothing to suggest that she repeated similar misconduct thereafter. Her current violations are different in nature and therefore do not demonstrate lack of rehabilitation nor the kind of recidivism that is at the heart of progressive discipline under Standard 1.8(a). Therefore, strict imposition of Standard 1.8(a) is "manifestly unjust" in this case.

Respondent has willfully violated Business and Professions Code section 6103 by disobeying the WCAB's August 19, 2015 order imposing sanctions in the amount of \$1,500.00 against respondent. Having full knowledge of the court's order, respondent had an affirmative duty to comply with the court's order or seek appropriate relief from the court to delay or stay her compliance. (*See In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 47 [attorney had an affirmative duty to comply with the court's orders and he could not simply disregard them and sit back and await contempt proceedings before complying with or explaining why he cannot obey a court order].) Respondent has also willfully violated Business and Professions Code section 6068(o)(3) by failing to report the imposition of sanctions to the State Bar, willfully violated Business and Professions Code section 6106.3(a) by failing to provide her client with a separate written agreement as required by Civil Code section 2944.6, willfully violated Rules of Professional Conduct, rule 3-700(D)(1) by failing to

promptly return a client file, willfully violated Business and Professions Code section 6068(a) by violating Civil Code section 2944.7, and willfully violated Rules of Professional Conduct, rule 4-200 by collecting an illegal fee in violation of Civil Code section 2944.7. Accordingly, a one-year stayed suspension, 30-day actual suspension, and two-year probation period is appropriate.

Case law supports this result. In *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, the attorney received a stayed suspension regarding his misconduct in handling a criminal appeal. The attorney was found culpable of failing to competently perform legal services, failing to obey court orders concerning the filing deadline for an appellate brief and failing to report a judicial sanction. Aggravating factors included committing multiple acts of misconduct and harm to the administration of justice. The attorney received mitigation for 17 years of discipline free practice and cooperation with the State Bar for entering into a stipulation of facts, in addition to diminished mitigation for character references.

Here, respondent has mitigating factors and aggravating factors. Although respondent's prior records of discipline are remote in time and are not being given significant weight in aggravation, her two prior records of discipline cannot be ignored. The instant matter is distinguishable from *Riordan* as the attorney in *Riordan* had 17 years of discipline free conduct and respondent has 19 years between her last misconduct and her current misconduct. Therefore, deviating from Standard 2.12(a) is not warranted.

#### **DISMISSALS.**

The parties respectfully request the Court to dismiss the following alleged violations in the interest of justice:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
16-O-11261	One	B&P 6106.3

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

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of January 29, 2018, the discipline costs in this matter are \$6,817. 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. (Rules Proc. of State Bar, rule 3201.)

#### **NOTICE OF DISCIPLINARY CHARGES DISCREPANCIES**

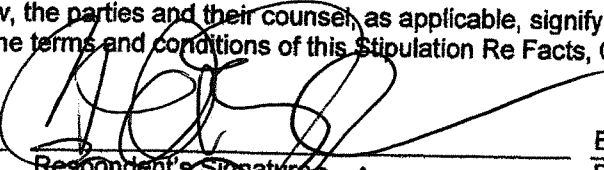
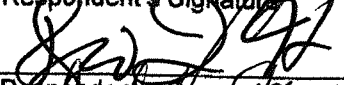

The parties waive any discrepancies between the filed Notices of Disciplinary Charges and this Stipulation of facts, Conclusions of Law and Disposition.

(Do not write above this line.)

In the Matter of: <b>BRENDA ELIZABETH VARGAS</b>	Case number(s): <b>16-O-10488</b> <b>16-O-11261</b>
---	---

**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>2.8.2018</u>		<u>Brenda Elizabeth Vargas</u>
Date	Respondent's Signature	Print Name
<u>2/12/2018</u>		<u>James I. Ham</u>
Date	Respondent's Counsel Signature	Print Name
<u>2/12/18</u>		<u>Shataka Shores-Brooks</u>
Date	Deputy Trial Counselor's Signature	Print Name

(Do not write above this line.)

In the Matter of: <b>BRENDA ELIZABETH VARGAS</b>	Case Number(s): <b>16-O-10488</b> <b>16-O-11261</b>
---	---

### 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.
1. On p. 2, paragraph B. (1) (b): Delete "February 2" and insert in its stead "February 26" as the correct effective date.
  2. On p. 2, paragraph B. (1) (e): Add "98-O-01483" as that case was omitted; and correct "98-O-03202" to read "98-O-03205."
  3. On p. 9, paragraph 26: Delete "6103(a)" and replace it with "section 6106.3(a)."
  4. On p. 9, paragraph 28: Add at the end of the sentence, "by violating Civil Code section 2944.7."
  5. On p. 10, under the paragraph "Good Character": Delete "seven" and correct it to read "eight."

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 7, 2018*  
Date

*[Signature]*  
YVETTE D. ROLAND  
Judge of the State Bar Court





Please note this court order which is effective 2/26/98

Transmitted Date: 2/17/98  
Annal Martin

Sender

**SUPREME COURT  
FILED**

**JAN 27 1998**

(State Bar Court Case No. 95-0-17596)

**S 065826**

Robert F. Wandruff Clerk  
**DEPUTY**

**IN THE SUPREME COURT OF THE STATE OF CALIFORNIA**

=====

**IN RE BRENDA VARGAS ON DISCIPLINE**

It is ordered that **Brenda Vargas** be suspended from the practice of law for 18 months, that execution of suspension be stayed, and that she be placed on probation for two years on condition that she be actually suspended for 60 days and until she makes restitution to Pamela Rich in the amount of \$7441.00, plus 10% interest per annum from January 4, 1995, and furnishes satisfactory proof thereof to the Probation Unit, State Bar Office of Trials. She is also ordered to comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed September 19, 1997. It is further ordered that she take and pass the Multistate Professional Responsibility Examination within the period of her actual suspension or one year after the effective date of this order, whichever is longer. (See Segretti v. State Bar (1976) 15 Cal.3d 878, 891, fn. 8.) If the period of actual suspension exceeds 90 days, it is also ordered that she comply with rule 955, California Rules of Court, and that she perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 days, respectively, after the date this order is effective.\* Costs are awarded to the State Bar pursuant to Business and Professions Code section 6086.10. For good cause shown, the costs shall be divided into two equal payments, and added to the membership fee due for the 1998 and 1999 calendar years.

\* See Business and Professions Code section 6126, subd. (c).

Robert F. Wandruff, Clerk of the Supreme Court of the State of California do hereby certify that the preceding is a true copy of an order of this Court, as shown by the records of my office.

Witness my hand and the seal of the Court this

day of JAN 27 1998 A. D. 19\_\_

Clerk

Annal Martin  
Deputy Clerk

Robert F. Wandruff  
Chief Justice

State Bar Court of the State Bar of California  
Hearing Department  Los Angeles  San Francisco

Counsel for the State Bar <b>VICTORIA R. MOLLOY</b> JANET S. HUNT, No. 97635 1149 SOUTH HILL STREET LOS ANGELES, CA 90015 Telephone: (213) 765-1000	Case number(s) 95-0-17596-NRL	(for Court's use)  <div style="text-align: right; font-size: 2em; font-weight: bold;">FILED</div> <div style="text-align: right; font-size: 1.5em;">SEP 19 1997</div> <div style="text-align: center; font-size: 1.5em; font-weight: bold;">PUBLIC MATTER</div> <div style="text-align: right; font-weight: bold;">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</div>
Counsel for Respondent  <b>RICHARD LENARD</b> LENARD & CANSDALE 625 THE CITY DRIVE, 4TH FL. ORANGE, CA 92668	Submitted to <input checked="" type="checkbox"/> assigned judge <input type="checkbox"/> settlement judge  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>ACTUAL SUSPENSION</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of  <b>BRENDA VARGAS</b>  Bar # 153230  A Member of the State Bar of California (Respondent)		

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted June 11, 1991  
(date)
- (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 on the attachment under "Dismissals." The attachment consists of 5 pages.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included on the attachment under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts set forth on the attachment are also included under "Conclusions of Law."
- (6) 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.
- (7) 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 284, Rules of Procedure.
  - costs to be paid in equal amounts prior to February 1 for the following membership years:  
1998, 1999  
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
  - costs waived in part as set forth on the attachment under "Partial Waiver of Costs"
  - costs entirely waived

**Note:** All information required by this form which cannot be provided on the approved forms, and any additional information, shall be set forth on one continuous attachment, which may consist of several pages, under specific headings, i.e. "Facts," "Dismissals," "Conclusions of Law."  
 (Stipulation form approved by SBC Executive Committee 6/18/97)

Actual Suspension

**B. Aggravating Circumstances (for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b).) Facts supporting aggravating circumstances are set forth below or on attachment.**

(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 attachment under "Prior Discipline".

(2)  **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.

(3)  **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.

(4)  **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.

(5)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

(6)  **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.

(7)  **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.

(8)  **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

C. **Mitigating Circumstances (see standard 1.2(e).) Facts supporting mitigating circumstances are set forth below or on attachment.**

- (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.~~ *which carries some mitigating weight. NJS*
- (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 to the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4)  **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5)  **Restitution:** Respondent paid \$ \_\_\_\_\_ on \_\_\_\_\_ in restitution to \_\_\_\_\_ without the threat or force of disciplinary, civil or criminal proceedings.
- (6)  **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7)  **Good Faith:** Respondent acted in good faith.
- (8)  **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9)  **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10)  **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11)  **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12)  **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13)  **No mitigating circumstances** are involved.

**Additional mitigating circumstances:**

**D. Discipline (choose only one):**

- (1)  **Suspension; No Probation:** Respondent shall be actually suspended from the practice of law for \_\_\_\_\_ (no probation).
- (2)  **Probation Including Suspension:** Respondent shall be suspended from the practice of law for \_\_\_\_\_ execution stayed, and placed on probation for \_\_\_\_\_ year(s), on conditions including actual suspension for \_\_\_\_\_.
- (3)  **Probation Including Suspension Until Restitution:** Respondent shall be suspended from the practice of law for 18 months, execution stayed, and placed on probation for (2) two year(s), on conditions including actual suspension from the practice of law for (60) sixty days and until he/she pays restitution to Pamela Rich is paid (payee(s)) (or the Client Security Fund, if appropriate), in the amount(s) of \$7441.00, plus 10% interest per annum accruing from January 4, 1995, and provides proof thereof to the Probation Unit, Office of the Chief Trial Counsel, Los Angeles.
- (4)  **Suspension Until Restitution Stayed; Probation Including Suspension:** Respondent shall be suspended from the practice of law for \_\_\_\_\_ and until he/she pays restitution to \_\_\_\_\_ (payee(s)) (or Client Security Fund, if appropriate), in the amount(s) of \_\_\_\_\_, plus 10% interest per annum accruing from \_\_\_\_\_, and provides proof thereof to the Probation Unit, Office of the Chief Trial Counsel, Los Angeles, execution stayed, and placed on probation for \_\_\_\_\_ year(s), on conditions including actual suspension for \_\_\_\_\_.
- (5)  **Suspension Until Restitution and Rehabilitation Stayed; Probation Including Suspension:** Respondent shall be suspended from the practice of law for \_\_\_\_\_ and until he/she pays restitution to \_\_\_\_\_ (payee(s)) (or the Client Security Fund, if appropriate), in the amount(s) of \_\_\_\_\_, plus 10% interest per annum accruing from \_\_\_\_\_, and provides proof thereof to the Probation Unit, Office of the Chief Trial Counsel, Los Angeles, and until Respondent proves his/her rehabilitation pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct to the State Bar Court, execution stayed, and placed on probation for \_\_\_\_\_ year(s), on conditions including actual suspension for \_\_\_\_\_.

**E. Additional Conditions of Probation:**

- (1)  If Respondent is actually suspended for two years or more, he/she shall 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.
- (2)  During the probation period, Respondent shall comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3)  Respondent shall promptly report, and in no event in more than 10 days, to the Membership Records Office of the State Bar and to the Probation Unit, Office of the Chief Trial Counsel, Los Angeles, all changes of information including current office or other address for State Bar purposes as prescribed by section 6002.1 of the Business and Professions Code.
- (4)  Respondent shall submit written quarterly reports to the Probation Unit of the Office of the Chief Trial Counsel on each January 10, April 10, July 10, and October 10 of the period of probation, except as set forth in the second paragraph of this condition. Under penalty of perjury each report shall state that Respondent has complied with all provisions of the State Bar Act and the Rules of Professional Conduct during the preceding calendar quarter or period described in the second paragraph of this condition.

If the first report would cover less than 30 days, then the first report shall be submitted on the next quarter date and cover the extended period. The final report is due no earlier than 20 days before the last day of the period of probation and no later than the last day of probation.

- (5)  Subject to assertion of applicable privileges, Respondent shall answer fully, promptly and truthfully any inquiries of the Probation Unit of the Office of the Chief Trial Counsel 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.
- (6)  Within one year of the effective date of the discipline herein, Respondent shall attend the State Bar Ethics School, and shall pass the test given at the end of such session.
- No Ethics School recommended.
- (7)  The following conditions are attached hereto and incorporated:
- Substance Abuse Conditions       Law Office Management Conditions
- Medical Conditions       Financial Conditions
- (8)  Respondent shall be assigned a probation monitor. Respondent shall promptly review the terms and conditions of his/her probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent shall furnish such reports as may be requested by the probation monitor to the probation monitor in addition to quarterly reports required to be submitted to the Probation Unit of the Office of the Chief Trial Counsel. Respondent shall cooperate fully with the probation monitor to enable him/her to discharge his/her duties.
- (9)  Other conditions negotiated by the parties:
- Multistate Professional Responsibility Examination:** Respondent shall provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Probation Unit of the Office of the Chief Trial Counsel 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 951(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
- No MPRE recommended.
- Rule 955, California Rules of Court:** Respondent shall comply with the provisions of subdivisions (a) and (c) of rule 955, California Rules of Court, within 30 and 40 days, respectively, from the effective date of the Supreme Court order herein.
- Conditional Rule 955, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she shall comply with the provisions of subdivisions (a) and (c) of rule 955, California Rules of Court, within 120 and 130 days, respectively, from the effective date of the Supreme Court order herein.
- Credit for Interim Suspension (conviction referral cases only):** Respondent shall be credited for the period of his/her interim suspension toward the stipulated period of actual suspension.

In the Matter of  
BRENDA VARGAS

Case Number(s):  
95-0-17596-NRL

A Member of the State Bar

### Financial Conditions

- Respondent shall pay restitution to Pamela Rich (payee(s)) (or the Client Security Fund, if appropriate), in the amount(s) of \$7441.00, plus 10% interest per annum accruing from January 4, 1995, and provide proof thereof to the Probation Unit, Office of the Chief Trial Counsel,
- no later than 60 days from the effective date of the Court's order in this mat  
Or
- on the payment schedule set forth on the attachment under "Financial Conditions, Restitution."

1. If Respondent is in possession of clients' funds, or has come into possession thereof during the period covered by each report required, he/she shall file with each report required by these conditions a certificate from a Certified Public Accountant certifying:
- a. That Respondent has maintained a bank account in a bank authorized to do business in the State of California at a branch within the State of California and that such account is designated as a "trust account" or "clients' funds account" and
  - b. That Respondent has kept and maintained the following:
    - i. a written ledger for each client on whose behalf funds are held that sets forth:
      1. the name of such client,
      2. the date, amount and source of all funds received on behalf of such client,
      3. the date, amount, payee and purpose of each disbursement made on behalf of such client, and
      4. the current balance for such client;
    - ii. a written journal for each client trust account that sets forth:
      1. the name of such account,
      2. the date, amount and client affected by each debit and credit, and
      3. the current balance in such account.
    - iii. all bank statements and cancelled checks for each client trust account; and
    - iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.
  - c. That Respondent has maintained a written journal of securities or other properties held for clients that specifies:
    - i. each item of security and property held;
    - ii. the person on whose behalf the security or property is held;
    - iii. the date of receipt of the security or property;
    - iv. the date of distribution of the security or property; and
    - v. the person to whom the security or property was distributed.
2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, he or she must so state under penalty of perjury in the report he or she files with the Probation Unit for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.
3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.
- Within one year of the effective date of the discipline herein, Respondent shall attend the State Bar Ethics School Client Trust Account Record-Keeping Course, and shall pass the test given at the end of such session.



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

IN THE MATTER OF:     BRENDA VARGAS

CASE NUMBER(S):       95-0-17596

**FACTS AND CONCLUSIONS OF LAW.**

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

**COUNT ONE**

Case No. 95 0 17596  
Rules of Professional Conduct, rule 4-100 (B) (3)  
[Failure to Render Appropriate Accounting to Client]

1.    On or about November 10, 1993, Pamela Rich (hereinafter "Rich") employed RESPONDENT, on a contingency fee basis, to take over her representation in a personal injury matter entitled, Rich v. Sportsman's Lodge, (then pending in Los Angeles Superior Court, case number EC 010 688). RESPONDENT was the third attorney to represent Rich in this matter.

2.    In or about December 1994, RESPONDENT negotiated a \$60,000.00 settlement with two of the three defendants in the Sportsman's Lodge matter.

3.    In or about January 1995, upon receipt of the \$60,000.00, RESPONDENT disbursed a portion of the settlement funds to Rich.

4.    On or about January 4, 1995, RESPONDENT issued a letter to Rich providing a statement of accounting regarding the Sportsman's Lodge case.

5. On numerous occasions, commencing on or about January 11, 1995, through in or about September 1995, Rich asked RESPONDENT for an explanation and a breakdown of the January 4, 1995, accounting. Rich made numerous requests for copies of checks, bills and names of witnesses paid. RESPONDENT failed to provide an explanation, breakdown or complete documentation regarding the disbursement of the \$60,000.00.

6. On or about September 21, 1995, Attorney Robert L. Fenton was employed by Rich to obtain an appropriate accounting from RESPONDENT. On or about September 21, 1995, October 9, 1995, October 13, 1995 and October 20, 1995, Attorney Robert L. Fenton, on behalf of Rich, sent a fax and a letter to RESPONDENT requesting a more detailed accounting.

7. On or about October 10, 1995 and October 17, 1995, RESPONDENT misrepresented to Fenton that she had met with Rich and had given Rich a copy of all the drafts which represented the disbursements in the matter. RESPONDENT had not met with Rich.

8. On or about October 25, 1995, RESPONDENT met with Fenton and provided some documentation, however approximately \$6,000.00 remains unaccounted for.

9. Despite several demands, written and oral, RESPONDENT has failed to render an appropriate accounting to Rich.

LEGAL CONCLUSION

By the foregoing conduct, Respondent wilfully violated Rules of Professional Conduct, rule 4-100(B)(3).

///

COUNT TWO

Case No. 95 0 17596  
Rules of Professional Conduct, Rule 3-700 (A) (2)  
[Improper Withdrawal - Failure to Give Due Notice]

1. Paragraphs One and Two of Count One are incorporated by reference as if set forth herein.
2. Trial with the third defendant in the Sportsman's Lodge matter was scheduled for April 8 and 9, 1996.
3. On or about March 27, 1996, RESPONDENT informed Rich that she would be better off if she proceeded to trial on her own behalf.
4. On or about March 27, 1996, RESPONDENT prepared a substitution of attorney form, which Rich signed, however, RESPONDENT did not sign the substitution form at that time.
5. On or about April 1, 1996, RESPONDENT informed Rich that she had executed the substitution of attorney form and that she could pick it up.
6. On or about April 8 and 9, 1996, Rich appeared in court without an attorney. Rich asked for a continuance, however the Court instructed her to proceed with her case. The Court's denial of her request for continuance was based, in part, upon the fact that the trial had been continued on three previous occasions.
7. Rich proceeded to trial and the jury returned a defense verdict.
8. RESPONDENT withdrew from representation of Rich on the eve of trial without taking reasonable steps to avoid reasonably

foreseeable prejudice to the rights of her client. RESPONDENT failed to give Rich due notice of her withdrawal.

LEGAL CONCLUSION

By the foregoing conduct, Respondent wilfully violated California Rules of Professional Conduct, rule 3-700 (A)(2).

COUNT THREE

Case No. 95 0 17596  
Rules of Professional Conduct, rule 3-700(D)(2)  
[Failure to Promptly Refund Unearned Fees]

1. On or about July 19, 1994, Rich employed RESPONDENT to represent her in several proceedings related to her family law matter, which included a civil suit against Emil Rich (Rich's ex-husband), an OSC re: Eviction and an attempt to obtain shares of ABC stock which were held in her ex-husband's name. Rich paid RESPONDENT \$5,000.00 in advanced legal fees.

2. On or about September 23, 1994, Rich substituted RESPONDENT out of the civil cases against Emil Rich, the eviction case and the ABC stock case.

3. On or about September 23, 1994, Respondent sent a letter to Rich wherein she acknowledged receipt of the \$5,000.00 and she advised Rich that she would return \$1,880.00 in unearned fees to Rich. Respondent has failed to return the \$1,880.00 in unearned fees to Rich.

LEGAL CONCLUSION

By the foregoing conduct, RESPONDENT has wilfully violated Rules of Professional Conduct, rule 3-700(D)(2).

///

**PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A.(6), was September 18, 1997.

**AGGRAVATING CIRCUMSTANCES.**

**FACTS SUPPORTING AGGRAVATING CIRCUMSTANCES.**

Respondent failed to provide her client, Pamela Rich with an appropriate accounting for \$7,441.00, from January 4, 1995 to the present date. Respondent failed to properly account to the client and failed to promptly reimburse the \$7441.00.

**MITIGATING CIRCUMSTANCES.**

**FACTS SUPPORTING MITIGATING CIRCUMSTANCES.**

Respondent was admitted June 11, 1991 and has no prior record of discipline.

**FINANCIAL CONDITIONS, RESTITUTION.**

Within sixty (60) days from the effective date of discipline in this matter, respondent must make restitution to Pamela Rich or the Client Security Fund if it has paid, in the principal amount of \$7,441.00 plus interest at the rate of 10% per annum from January 4, 1995 until paid in full and furnish satisfactory evidence of restitution to the Probation Unit. Respondent shall include in each quarterly report required herein satisfactory evidence of all restitution payments made by him or her during that reporting period.

**FINANCIAL CONDITIONS, RESTITUTION.**

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

**ADDITIONAL STIPULATION**

The parties stipulate to vacate the default as of the date that the court approves the Stipulation herein and the parties stipulate to relieve Respondent from inactive status as of the date that the trial court approves the Stipulation herein.

18 Sept 1997  
Date

*Brenda Vargas*  
Respondent's signature

BRENDA VARGAS  
print name

9-18-97  
Date

*Richard A. Lenard*  
Respondent's Counsel's signature

RICHARD LENARD  
print name

9/18/97  
Date

*Janet S. Hunt*  
Deputy Trial Counsel's signature

JANET S. HUNT  
print name

### ORDER

This stipulation as to facts and discipline is REJECTED.

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, listed on the attachments is GRANTED without prejudice, and:

The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.

*RS* The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.

*See modification at page 3.*

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 953(a), California Rules of Court.)**

*Sept. 19, 1997*  
Date

*Jamy M. Lendale*  
Judge of the State Bar Court

**CERTIFICATE OF SERVICE**

[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Deputy Case Coordinator of the State Bar Court. 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 September 19, 1997, I deposited a true copy of the following document(s)

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING** filed September 19, 1997

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

[X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

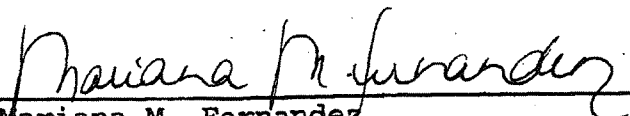
**RICHARD A LENARD ESQ  
LENARD & CANSDALE  
625 THE CITY DR 4FL  
ORANGE CA 92668**

[ ] by certified mail, , with a return receipt requested, through the United States Postal Service at San Francisco, California, addressed as follows:

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

**JANET HUNT A/L  
OFFICE OF TRIAL COUNSEL - LA**

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on September 19, 1997.

  
Mariana M. Fernandez  
Deputy Case Coordinator  
State Bar Court





(State Bar Court Case No. 97-O-17246; 97-O-17250; 98-O-01209; 98-O-01446; 98-O-01483; 98-O-01545; 98-O-03205; 98-O-03320; 99-O-10127; 99-O-12055 (Cons.))

S098528

SUPREME COURT  
**FILED**

IN THE SUPREME COURT OF CALIFORNIA

AUG 31 2001

EN BANC

Frederick K. Ohlrich Clerk

DEPUTY

IN RE BRENDA ELIZABETH VARGAS ON DISCIPLINE

It is ordered that **BRENDA ELIZABETH VARGAS**, State Bar No. 153230, be suspended from the practice of law for two years, that execution of the suspension be stayed, and that she be placed on probation for three years subject to the conditions of probation, including nine months actual suspension and restitution, recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed on May 4, 2001. It is also ordered that she take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) It is further ordered that she comply with rule 955 of the California Rules of Court, and that she perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order.\*


Costs are awarded to the State Bar and one-half of said costs shall be added to and become part of the membership fees for the years 2002 and 2003. (Business & Professions Code section 6086.10.)

\*(See Bus. and Prof. Code, § 6126, subd. (c).)

I, Frederick K. Ohlrich, Clerk of the Supreme Court of the State of California, do hereby certify that the preceding is a true copy of an order of this Court, as shown by the records of my office.

Witness my hand and the seal of the Court this  
\_\_\_\_\_ day of \_\_\_\_\_ 2001

By: \_\_\_\_\_  
Deputy

  
\_\_\_\_\_  
Chief Justice

**FILED**

102

**JAN 16 2003**

STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**THE STATE BAR COURT  
HEARING DEPARTMENT - LOS ANGELES**

In the Matter of  
**BRENDA ELIZABETH VARGAS,**  
Member No. 153230,  
A Member of the State Bar.

Case Nos. 97-O-17246; 97-O-17250;  
98-O-01209; 98-O-01446;  
98-O-01483; 98-O-01545;  
98-O-03205; 98-O-03320;  
99-O-10127; 99-O-12055 (Cons.)  
(S098528)

**ORDER APPROVING STIPULATION TO  
EXTEND PROBATION**

**TO ALL PARTIES AND COUNSEL IN THE ABOVE ENTITLED MATTER:**

By stipulation filed December 16, 2002, Respondent **BRENDA ELIZABETH VARGAS** and the State Bar stipulate to modify a condition of probation in Supreme Court case No. S098528 in that the period of probation be extended an additional three months. Probation shall terminate on December 30, 2004, instead of September 30, 2004.

The requested relief is appropriate and serves the objectives of probation. (Rules Proc. of State Bar, rule 551; Cal. Rules of Court, rule 951(c).) Accordingly, the stipulation is hereby **APPROVED**. Respondent's disciplinary probation shall end on December 30, 2004. All other terms and conditions of probation shall remain in full force.

Dated: January 15, 2003

  
\_\_\_\_\_  
**ROBERT M. TALCOTT**  
Judge of the State Bar Court

**CERTIFICATE OF SERVICE**  
[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court. 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 January 16, 2003, I deposited a true copy of the following document(s):

**ORDER RE SETTLEMENT CONFERENCE, filed January 16, 2003**

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

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


**THOMAS HUNTER RUSSELL ESQ  
LAW OFC THOMAS H RUSSELL  
1777 N VINE ST #409  
HOLLYWOOD, CA 90028 5218**

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

**Monique T. Miller, Enforcement, Los Angeles**

**Probation Unit, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **January 16, 2003.**

  
**Milagro del R. Salmeron**  
Case Administrator  
State Bar Court

**ORIGINAL**

<p>Counsel for the State Bar                  THE STATE BAR OF CALIFORNIA                  OFFICE OF THE CHIEF TRIAL COUNSEL                  WILLIAM F. STRALKA, No. 056147                  1149 South Hill Street                  Los Angeles, CA 90015</p>	<p>Case number(s)                  97-0-17246-PAB                  97-0-17250                  98-0-01209                  98-0-01446                  98-0-01483                  98-0-01545                  98-0-03205                  98-0-03320                  99-0-10127                  99-0-12055-PAB                  (Consolidated)</p>	<p>(for Court's use)   <b>FILED</b>                   MAY 04 2001                   STATE BAR COURT                  CLERK'S OFFICE                  LOS ANGELES</p>
<p>Counsel for Respondent                  THOMAS HUNTER RUSSELL                  6290 Sunset Blvd., Suite 1000                  Sunset-Vine Towers                  Hollywood, CA 90028-8714                  (323) 464-6184</p>	<p><b>PUBLIC MATTER</b></p>	
<p>In the Matter of                   BRENDA ELIZABETH VARGAS                   Bar # 153230                  A Member of the State Bar of California                  (Respondent)</p>	<p>Submitted to <input checked="" type="checkbox"/> assigned judge <input type="checkbox"/> settlement judge                  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION                  AND ORDER APPROVING                  ACTUAL SUSPENSION   <input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted 6-18-91 (date)
- (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 and order consist of 16 pages.
- (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) 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.
- (7) 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 284, Rules of Procedure. February 28, 2003
  - costs to be paid in equal amounts prior to ~~February 28, 2003~~ for the following membership years:  
 in equal installments.  
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
  - costs waived in part as set forth under "Partial Waiver of Costs"
  - costs entirely waived

Note: All information required by this form and any additional information which cannot be provided in the space provided, shall be set forth in the text component of this stipulation under specific headings, i.e. "Facts," "Dismissals," "Conclusions of Law."

B. Aggravating Circumstances [definition, see Standards for Attorney S...ions 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 S065826 (95-0-17596)

(b)  date prior discipline effective 2-26-98

(c)  Rules of Professional Conduct/ State Bar Act violations: 4-100(B)(3), 3-700(A)(2),

3-700(D)(2)

(d)  degree of prior discipline 2 yrs Prob., 60 days actual, 18 mo. stayed and restitution of \$7,441.00.

(e)  If Respondent has two or more incidents of prior discipline, use space provided below or under "Prior Discipline".

- (2)  Dishonesty: Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3)  Trust Violation: Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4)  Harm: Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5)  Indifference: Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6)  Lack of Cooperation: Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7)  Multiple/Pattern of Misconduct: Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (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 to the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4)  Remorse: Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5)  Restitution: Respondent paid \$ \_\_\_\_\_ on \_\_\_\_\_ in restitution to \_\_\_\_\_ without the threat or force of disciplinary, civil or criminal proceedings.
- (6)  Delay: These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7)  Good Faith: Respondent acted in good faith.
- (8)  Emotional/Physical Difficulties: At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9)  Severe Financial Stress: At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10)  Family Problems: At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11)  Good Character: Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12)  Rehabilitation: Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13)  No mitigating circumstances are involved.

Additional mitigating circumstances:

D. Discipline

1. Stayed Suspension.

- A. Respondent shall be suspended from the practice of law for a period of two years
- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
  - ii. and until Respondent pays restitution to \_\_\_\_\_ [payee(s)] (or the Client Security Fund, if appropriate), in the amount of \_\_\_\_\_, plus 10% per annum accruing from \_\_\_\_\_ and provides proof thereof to the Probation Unit, Office of the Chief Trial Counsel
  - iii. and until Respondent does the following: \_\_\_\_\_
- B. The above-referenced suspension shall be stayed.

2. Probation.

Respondent shall be placed on probation for a period of three years which shall commence upon the effective date of the Supreme Court order herein. (See rule 953, California Rules of Court.)

3. Actual Suspension.

- A. Respondent shall be actually suspended from the practice of law in the State of California for a period of nine (9) months
- 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 to \_\_\_\_\_ [payee(s)] (or the Client Security Fund, if appropriate), in the amount of \_\_\_\_\_, plus 10% per annum accruing from \_\_\_\_\_ and provides proof thereof to the Probation Unit, Office of the Chief Trial Counsel
  - 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 shall 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.
- (2)  During the probation period, Respondent shall comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3)  Within ten (10) days of any change, Respondent shall report to the Membership Records Office of the State Bar and to the Probation Unit, 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)  Respondent shall submit written quarterly reports to the Probation Unit on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, respondent shall 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. If the first report would cover less than 30 days, that report shall 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 shall be assigned a probation monitor. Respondent shall 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 shall furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Probation Unit. Respondent shall cooperate fully with the probation monitor.
- (6)  Subject to assertion of applicable privileges, Respondent shall answer fully, promptly and truthfully any inquiries of the Probation Unit of the Office of the Chief Trial Counsel 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 shall provide to the Probation Unit 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.
- (8)  Respondent shall comply with all conditions of probation imposed in the underlying criminal matter and shall so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Probation Unit.
- (9)  The following conditions are attached hereto and incorporated:
- |   |   |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions         | <input checked="" type="checkbox"/> Financial Conditions  |
- (10)  Other conditions negotiated by the parties:
- Multistate Professional Responsibility Examination: Respondent shall provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Probation Unit of the Office of the Chief Trial Counsel 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 951(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.
- No MPRE recommended.
- Rule 955, California Rules of Court: Respondent shall comply with the provisions of subdivisions (a) and (c) of rule 955, California Rules of Court, within 30 and 40 days, respectively, from the effective date of the Supreme Court order herein.
- Conditional Rule 955, California Rules of Court: If Respondent remains actually suspended for 90 days or more, he/she shall comply with the provisions of subdivisions (a) and (c) of rule 955, California Rules of Court, within 120 and 130 days, respectively, from the effective date of the Supreme Court order herein.
- Credit for Interim Suspension [conviction referral cases only]: Respondent shall be credited for the period of his/her interim suspension toward the stipulated period of actual suspension.



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

IN THE MATTER OF BRENDA E. VARGAS

FORMAL CASE NUMBER(S): 97-O-17246-PAB-et al. and 99-0-12055-PAB

**FACTS AND CONCLUSIONS OF LAW**

**COUNT 1 - FACTS:**

**Case No. 97-O-17246**

1. On August 28, 1997, the State Bar Court issued an Order involuntarily enrolling Respondent as an inactive member of the State Bar in Case No. 95-O-17596 pursuant to Business and Professions Code, section 6007(e). On August 28, 1997, the Court clerk served the Order on Respondent by mail at the Respondent's attorney's address in the official membership records of the State Bar. On August 31, 1997, Respondent was involuntarily enrolled as an inactive member of the State Bar.

2. On September 19, 1997, the State Bar Court issued an Order transferring Respondent to active status and approving a stipulation between Respondent and the State Bar providing in part for Respondent's actual suspension for sixty (60) days as the result of disciplinary proceeding Case No. 95-O-17596. On that same date, Respondent was properly served by mail with the Stipulation and Order.

3. On January 27, 1998, the California Supreme Court entered an Order in Case No. 95-O-17596 (S065826), effective on February 26, 1998, suspending Respondent from the practice of law for sixty (60) days. On or about January 27, 1998, the Clerk of the Supreme Court properly served a copy of the Order on Respondent at her State Bar membership records address. Pursuant to the Order, Respondent remained actually suspended until April 27, 1998.

4. On September 15, 1997, while on inactive status, Respondent appeared in the Los Angeles County Municipal Court and represented Steve Vargas at a hearing in the matter entitled People v. Vargas, case number SA028223. At that time, Respondent waived statutory time for trial on behalf of Vargas and scheduled the case

for a court trial on October 14, 1997.

**CONCLUSIONS OF LAW:**

By the foregoing conduct, Respondent violated Business and Professions Code, section 6068(a).

**COUNT 3 - FACTS:**

**Case No. 97-O-17250**

5. On September 9, 1997, while on inactive status, Respondent appeared in the Los Angeles County Municipal Court and represented Jose Gallegos Pulido at a hearing in a criminal case entitled People v. Pulido, case number BA 131103.

6. On September 15, 1997, while on inactive status, Respondent received \$500 from Ofelia Gonzales as legal fees to continue representing her brother, Jose Gallegos Pulido, in his criminal case.

**CONCLUSIONS OF LAW:**

By the foregoing conduct, Respondent violated Business and Professions Code, section 6068(a).

**COUNT 5 - FACTS:**

**Case No. 98-O-01209**

7. On March 6, 1998, while suspended from the practice of law, Respondent appeared in the Los Angeles County Superior Court, Pomona, and represented two defendants in the matters entitled People v. Saldana, case number KA038459, and People v. Mijares, case number KA038454. At that time, Respondent entered a guilty plea on behalf of each defendant.

8. On March 9, 1998, the judge in the Saldana and Mijares criminal cases relieved Respondent as counsel of record in both cases based upon information he received that Respondent was suspended from the active practice of law by the State Bar.

9. On April 1, 1998, the judge granted Saldana's and Mijares' motions to withdraw their guilty pleas based upon Respondent's suspension from the practice of

law at the time their pleas were entered.

**CONCLUSIONS OF LAW:**

By the foregoing conduct, Respondent violated Business and Professions Code, sections 6068(a) and 6068(k).

**COUNT 8 - FACTS:**

Case No. 98-O-01446

10. On March 5, 1998, while suspended from the practice of law, Respondent appeared in the Los Angeles County Superior Court and represented the defendant at a hearing in a case entitled People v. Foreman, case number TA038406.

**CONCLUSIONS OF LAW:**

By the foregoing conduct, Respondent violated Business and Professions Code, sections 6068(a) and 6068(k).

**COUNT 11 - FACTS:**

Case No. 98-O-01483

11. On March 3, 1998, while suspended from the practice of law, Respondent appeared in the Los Angeles County Superior Court and represented the defendant at a hearing in a case entitled People v. Gaxiola, case number BA74038.

**CONCLUSIONS OF LAW:**

By the foregoing conduct, Respondent violated Business and Professions Code, sections 6068(a) and 6068(k).

**COUNT 14 - FACTS:**

Case No. 98-O-01545

12. On March 2, 1998, while suspended from the practice of law, Respondent appeared in the Los Angeles County Superior Court and represented Mario Manuel Balderrama in a criminal case entitled, People v. Balderrama, Los Angeles County Superior Court, Department Northwest, case number LA027653.

**CONCLUSIONS OF LAW:**

By the foregoing conduct, Respondent violated Business and Professions Code,

sections 6068(a) and 6068(k).

**COUNTS 17, 18, 19, AND 20 - FACTS:**

Case No. 98-O-03205

13. On June 6, 1997, Feliciano Lopes Torres ("Torres") was sentenced to a prison term of six (6) years in a criminal case entitled People v. Torres, case number PA026556, in the Municipal Court of Los Angeles Judicial District. Torres had 120 days from that date, the date of his commitment, to seek a request for re-sentencing as required by the Penal Code.

14. On June 27, 1997, Jorge Lopes Garcia ("Garcia") employed Respondent to obtain a sentence modification, or re-sentencing hearing, for Torres, Garcia's uncle. On that date, Garcia paid Respondent \$1,500 in advanced fees for Respondent's legal services.

15. The 120 days for Torres to seek a sentence modification expired on October 6, 1997. Respondent did not file any motions on behalf of Torres for re-sentencing or modification of sentence within 120 days from Torres' commitment to state prison, or seek relief from the court to cure the failure to file a timely request for a sentence modification.

16. Respondent did not inform Torres that she was not licensed to practice law for the period of August 31, 1997, to September 19, 1997.

17. On April 17, 1998, Respondent filed, or had filed, a request for the court to reconsider Torres' sentence while Respondent was suspended from the practice of law and without Torres' knowledge or consent, listing Torres in Propria Persona.

18. On April 17, 1998, the court denied the request for reconsideration of Torres' sentence because it was not timely filed within 120 days of the date of Torres' commitment to state prison.

19. On June 1, 1998, Respondent sent Torres a letter implying that she had filed a request to modify Torres' sentence and stating that the judge had denied the request because Torres had agreed and understood the consequence of his previously

entered guilty plea. In fact, Respondent knew that the judge had denied the request on other grounds and that she had failed to file the request within 120 days from Torres' confinement. Respondent did not disclose to Torres that she was formerly suspended from the practice of law from February 26, 1998 to April 27, 1998. Respondent did not tell the truth regarding the circumstances of the filing of the request for reconsideration and the court's decision.

20. In September 1997, Garcia met with Respondent and requested that Respondent return the unearned fees.

21. In January 1998, Garcia personally delivered a letter written by Torres to Respondent requesting that Respondent return the unearned fees to Garcia. Respondent promised that her bookkeeper would return the unearned fees within the week.

22. In February 1998, Garcia's brother, Salvador Lopes, obtained a \$500 check from Respondent's office as a partial refund of the unearned fees. On or about February 26, 1998, Salvador Lopes deposited the check in his bank account. On or about March 4, 1998, the check was returned to Salvador Lopes due to insufficient funds in Respondent's account.

23. In March 1998, Garcia contacted Respondent's office, spoke with Ms. Smith, Respondent's bookkeeper, and requested the return of the unearned fees. Ms. Smith stated to Garcia that Respondent did not have funds to return fees.

24. To date, Respondent has failed to refund promptly any portion of the unearned fees in the amount of \$1,500 to Torres.

**CONCLUSIONS OF LAW:**

By the foregoing conduct, Respondent violated Rules of Professional Conduct, rules 3-110(A) and 3-700(d)(2); and Business and Professions Code, sections 6106 and 6068(k).

**COUNT 21 - FACTS:**

Case No. 98-O-03320

25. On August 10, 1998, Celida Diaz ("Diaz") employed Respondent to represent her son Jose Gallegos ("Gallegos") in a criminal case entitled People v. Gallegos, case number KA040601, in Los Angeles Superior Court, East Central District. On that date, Garcia paid Respondent \$1,000 in advance fees for Respondent's legal services.

26. On August 18, 1998, Respondent did not appear at the trial in Gallegos' case. On that date, Respondent contacted the court clerk by telephone and requested a continuance. The judge denied the request because Respondent did not comply with the local court rules, and appointed a deputy public defender to represent Gallegos. Gallegos plead guilty to two charges and was sentenced to two (2) years in state prison.

**CONCLUSIONS OF LAW:**

By the foregoing conduct, Respondent violated Rules of Professional Conduct, rule 3-110(A).

**COUNT 22 - FACTS:**

Case No. 99-O-10127

27. On July 23, 1997, Jose Ortiz ("J. Ortiz") employed Respondent to represent her husband, Ruben Maelo Ortiz ("Ortiz") in a criminal matter entitled People v. Ortiz, case number VA042498, in the Los Angeles County Superior Court, Southeast District. On that date, J. Ortiz paid Respondent \$1,300 in advanced fees to represent Ortiz.

28. On September 5, 1997, while on inactive status, Respondent appeared in court in Ortiz's criminal matter and requested a continuance of the trial which was granted by the court.

**CONCLUSIONS OF LAW:**

By the foregoing conduct, Respondent violated Business and Professions Code, section 6068(a).

**FORMAL CASE NO. 99-0-12055**

**FACTS:**

29. On January 15, 1997, Respondent commenced a jury trial as counsel for defendant Steven Bullard ("Bullard") on a charge of burglary in the second degree. Respondent's efforts that day were spent on selecting a jury, and 12 jurors and two alternates were impaneled.

30. On January 16, 1997, Bullard, on advice of Respondent, waived trial by jury. The jury was excused and a court trial then proceeded for about two hours. There were three witnesses and two exhibits for the prosecution. Respondent presented no evidence on behalf of Bullard. At the conclusion of the trial, Bullard was found guilty.

31. On January 29, 1997, Bullard was sentenced to six years in prison.

32. On May 14, 1997, Bullard filed a petition for a Writ of Habeas Corpus on the grounds that Respondent (1) had been ineffective counsel at trial, and (2) had told Bullard she would appeal his conviction and sentence, but she thereafter failed to file the appeal.

33. On June 10, 1997, Respondent signed an affidavit under penalty of perjury for use of the California Attorney General in opposing Bullard's petition. In the affidavit, Respondent (1) stated that Bullard had pled guilty to burglary, (2) stated that Bullard was sentenced to the six years as part of a plea bargain, and (3) denied that any trial had taken place.

34. All three of the foregoing representations in the affidavit were incorrect, in that there was no plea bargain, a court trial had taken place, and Bullard had pled not guilty. The court found him guilty after trial, and the sentence was determined by the court.

**CONCLUSIONS OF LAW:**

By making the three incorrect statements under oath without having ascertained whether they were correct or not, Respondent committed acts in wilful violation of Business and Professions Code, section 6106.

**DISMISSALS:**

The State Bar stipulates to dismiss Counts 2, 4, 6, 7, 9, 10, 12, 13, 15, 16 and 23, of formal case no. 97-O-17246-PAB pursuant to rule 261(b), Rules of Procedure of the State Bar of California, with prejudice, because of the insufficiency of the evidence.

**PENDING PROCEEDING:**

The disclosure date referred to, on page one, paragraph A.(6), was April 6, 2001.

**COST OF DISCIPLINARY PROCEEDINGS:**

Respondent acknowledges that the office the Chief Trial Counsel has informed Respondent that on April 6, 2001, the estimated prosecution costs in this matter are approximately \$5,637.32. Respondent acknowledges that this figure is an estimate only and that it does not include State Bar Court costs which will be included in any final costs assessment. 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.

**WAIVER OF REVIEW BY REVIEW DEPARTMENT:**

The parties hereto stipulate to a waiver of review by the Review Department and request that the disciplinary recommendation in this matter be transmitted to the Supreme Court on an expedited bases.



In the Matter of <b>BRENDA ELIZABETH VARGAS</b> A Member of the State Bar	Case Number(s): 97-0-17246 et al.
---	--------------------------------------

Financial Conditions

- a.  Respondent shall pay restitution to CELIDA DIAZ [payee(s)] (or the Client Security Fund, if appropriate), in the amount(s) of \$1,000.00, plus 10% interest per annum accruing from 10% from 8-10-98, and provide proof thereof to the Probation Unit, Office of the Chief Trial Counsel,  no later than 12-1-2001  
 Respondent claims she has already paid this. (To be verified by probation).  
 on the payment schedule set forth on the attachment under "Financial Conditions, Restitution."
- b.  1. If respondent possesses client funds at any time during the period covered by a required quarterly report, respondent shall file with each required report a certificate from respondent and/or a certified public accountant or other financial professional approved by the Probation Unit, certifying that:
- a. respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";
  - b. respondent has kept and maintained the following:
    - i. a written ledger for each client on whose behalf funds are held that sets forth:
      - 1. the name of such client;
      - 2. the date, amount and source of all funds received on behalf of such client;
      - 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
      - 4. the current balance for such client.
    - ii. a written journal for each client trust fund account that sets forth:
      - 1. the name of such account;
      - 2. the date, amount and client affected by each debit and credit; and,
      - 3. the current balance in such account.
    - iii. all bank statements and cancelled checks for each client trust account; and,
    - iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.
  - c. respondent has maintained a written journal of securities or other properties held for clients that specifies:
    - i. each item of security and property held;
    - ii. the person on whose behalf the security or property is held;
    - iii. the date of receipt of the security or property;
    - iv. the date of distribution of the security or property; and,
    - v. the person to whom the security or property was distributed.
2. If respondent does not possess any client funds, property or securities during the entire period covered by a report, respondent must so state under penalty of perjury in the report filed with the Probation Unit for that reporting period. In this circumstance, respondent need not file the accountant's certificate described above.
3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.
- c.  Within one (1) year of the effective date of the discipline herein, respondent shall supply to the Probation Unit satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

(Financial Conditions form approved by SBC Executive Committee 10/16/00)

In the Matter of  
BRENDA ELIZABETH VARGAS


Case Number(s):  
97-0-17246 et al.

A Member of the State Bar

Financial Conditions

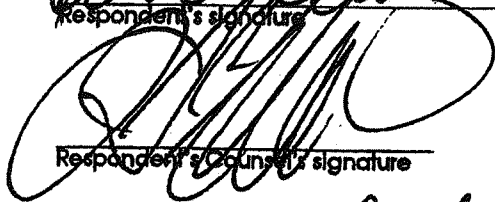
- a.  Respondent shall pay restitution to JORGE LOPES GARCIA [payee(s)] (or the Client Security Fund, if appropriate), in the amount(s) of \$1,500.00, plus 10% interest per annum accruing from 6-27-97, and provide proof thereof to the Probation Unit, Office of the Chief Trial Counsel,  no later than 12-1-2001  
 Respondent claims she has already paid this. (To be verified by Probation).  
 on the payment schedule set forth on the attachment under "Financial Conditions, Restitution."
- b.  1. If respondent possesses client funds at any time during the period covered by a required quarterly report, respondent shall file with each required report a certificate from respondent and/or a certified public accountant or other financial professional approved by the Probation Unit, certifying that:
- a. respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";
  - b. respondent has kept and maintained the following:
    - i. a written ledger for each client on whose behalf funds are held that sets forth:
      - 1. the name of such client;
      - 2. the date, amount and source of all funds received on behalf of such client;
      - 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
      - 4. the current balance for such client.
    - ii. a written journal for each client trust fund account that sets forth:
      - 1. the name of such account;
      - 2. the date, amount and client affected by each debit and credit; and,
      - 3. the current balance in such account.
    - iii. all bank statements and cancelled checks for each client trust account; and,
    - iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.
  - c. respondent has maintained a written journal of securities or other properties held for clients that specifies:
    - i. each item of security and property held;
    - ii. the person on whose behalf the security or property is held;
    - iii. the date of receipt of the security or property;
    - iv. the date of distribution of the security or property; and,
    - v. the person to whom the security or property was distributed.
2. If respondent does not possess any client funds, property or securities during the entire period covered by a report, respondent must so state under penalty of perjury in the report filed with the Probation Unit for that reporting period. In this circumstance, respondent need not file the accountant's certificate described above.
3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.
- c.  Within one (1) year of the effective date of the discipline herein, respondent shall supply to the Probation Unit satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

Date 4/24/01

  
Respondent's signature

DIRENDA ELIZABETH VARGAS  
print name

Date 4/24/01

  
Respondent's Counsel's signature

THOMAS HUNTER RUSSELL  
print name

Date 4-25-01

William F. Stralka  
Deputy Trial Counsel's signature

WILLIAM F. STRALKA  
print name

**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.

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 953(a), California Rules of Court.)

Date 5-3-01

  
Judge of the State Bar Court

**CERTIFICATE OF SERVICE**  
[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court. 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 May 4, 2001, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION  
AND ORDER APPROVING, filed April 4, 2001**

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

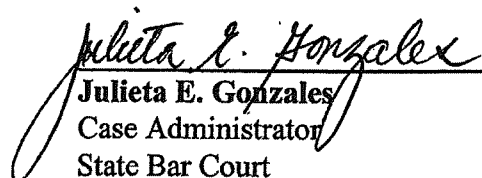
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**THOMAS H RUSSELL ESQ  
6290 SUNSET BLVD SUITE 1000  
HOLLYWOOD, CA 90028**

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

**William F. Stralka, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on May 4, 2001.

  
\_\_\_\_\_  
**Julieta E. Gonzales**  
Case Administrator  
State Bar Court

**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 Los Angeles, on March 8, 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 Los Angeles, California, addressed as follows:

**JAMES IRWIN HAM  
LAW OFFICE OF JAMES I. HAM A PROF. CORP.  
655 N CENTRAL AVE FL 17  
GLENDALE, CA 91203 - 1439**

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

**SHATAKA A. SHORES-BROOKS, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on March 8, 2018.

  
\_\_\_\_\_  
Paul Barona  
Court Specialist  
State Bar Court