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State Bar Court of California Hearing Department San Francisco ACTUAL SUSPENSION		
Counsel for the State Bar Carla L. Cheung Senior Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2291 Bar # 291562	Case Number(s): 17-O-00109-MC	For Court use only <div style="text-align: center; font-size: 1.2em; font-weight: bold;">PUBLIC MATTER</div> <div style="text-align: center; font-size: 1.5em; font-weight: bold;">FILED</div> <div style="text-align: center; font-size: 1.2em; font-weight: bold;">MAR 08 2019</div> <div style="text-align: center; font-size: 0.8em; font-weight: bold;">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</div>
Counsel For Respondent Howard R. Melamed, Esq. 319 Lennon Lane Walnut Creek, CA 94598-2418 (925) 932-0417 Bar # 40962	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: RUTH ELLEN RATZLAFF Bar # 87615 A Member of the State Bar of California (Respondent)		

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **November 29, 1979**.
- (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 **17** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."

- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (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. It is recommended that (check one option only):
- Costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. Unless the time for payment of discipline costs is extended pursuant to subdivision (c) of section 6086.10, costs assessed against a member who is actually suspended or disbarred must be paid as a condition of reinstatement or return to active status.
 - Costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. SELECT ONE of the costs must be paid with Respondent's membership fees for each of the following years:

If Respondent fails to pay any installment as described above, or as may be modified in writing by the State Bar or the State Bar Court, the remaining balance will be 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: **04-O-14636**
 - (b) Date prior discipline effective: **April 15, 2009**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **Rules of Professional Conduct, former rule 3-110(A), and Business and Professions Code, section 6106.**
 - (d) Degree of prior discipline: **Public Reproval**
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by, misrepresentation.
- (4) **Concealment:** Respondent's misconduct was surrounded by, or followed by, concealment.
- (5) **Overreaching:** Respondent's misconduct was surrounded by, or followed by, overreaching.

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- (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. **See page 14.**
- (9) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of Respondent's misconduct.
- (10) **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of Respondent's 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 13.**
- (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. **See page 14.**
- (15) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [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 Respondent's 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 Respondent's 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 Respondent.
- (7) **Good Faith:** Respondent acted with a good faith belief that was honestly held and objectively reasonable.

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- (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 Respondent, 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 Respondent's control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in Respondent's 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 Respondent's misconduct. **See page 14.**
- (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:

Pre-filing stipulation, see page 14.

Extreme emotional difficulties, see page 14.

Community service, see page 14.

D. Recommended Discipline:

- (1) **Actual Suspension:**

Respondent is suspended from the practice of law for **one year**, the execution of that suspension is stayed, and Respondent is placed on probation for **one year** with the following conditions.

- Respondent must be suspended from the practice of law for the first **60 days** of the period of Respondent's probation.

- (2) **Actual Suspension "And Until" Rehabilitation:**

Respondent is suspended from the practice of law for _____, the execution of that suspension is stayed, and Respondent is placed on probation for _____ with the following conditions.

- Respondent must be suspended from the practice of law for a minimum of the first _____ of Respondent's probation and until Respondent provides proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

- (3) **Actual Suspension "And Until" Restitution (Single Payee) and Rehabilitation:**

Respondent is suspended from the practice of law for _____, the execution of that suspension is stayed, and Respondent is placed on probation for _____ with the following conditions.

- Respondent must be suspended from the practice of law for a minimum of the first _____ of Respondent's probation, and Respondent will remain suspended until both of the following requirements are satisfied:
 - a. Respondent makes restitution to _____ in the amount of \$ _____ plus 10 percent interest per year from _____ (or reimburses the Client Security Fund to the extent of any payment from the Fund to such payee, in accordance with Business and Professions Code section 6140.5) and furnishes satisfactory proof to the State Bar's Office of Probation in Los Angeles; and
 - b. Respondent provides proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

(4) **Actual Suspension "And Until" Restitution (Multiple Payees) and Rehabilitation:**

Respondent is suspended from the practice of law for _____, the execution of that suspension is stayed, and Respondent is placed on probation for _____ with the following conditions.

- Respondent must be suspended from the practice of law for a minimum of the first _____ of Respondent's probation, and Respondent will remain suspended until both of the following requirements are satisfied:
 - a. Respondent must make restitution, including the principal amount plus 10 percent interest per year (and furnish satisfactory proof of such restitution to the Office of Probation), to each of the following payees (or reimburse the Client Security Fund to the extent of any payment from the Fund to such payee in accordance with Business and Professions Code section 6140.5):

<i>Payee</i>	<i>Principal Amount</i>	<i>Interest Accrues From</i>

- b. Respondent provides proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

(5) **Actual Suspension "And Until" Restitution (Single Payee) with Conditional Std. 1.2(c)(1) Requirement:**

Respondent is suspended from the practice of law for _____, the execution of that suspension is stayed, and Respondent is placed on probation for _____ with the following conditions.

- Respondent must be suspended from the practice of law for a minimum for the first _____ of Respondent's probation, and Respondent will remain suspended until the following requirements are satisfied:
 - a. Respondent makes restitution to _____ in the amount of \$ _____ plus 10 percent interest per year from _____ (or reimburses the Client Security Fund to the extent of any payment from the

Fund to such payee, in accordance with Business and Professions Code section 6140.5) and furnishes satisfactory proof to the State Bar's Office of Probation in Los Angeles; and,

- b. If Respondent remains suspended for two years or longer, Respondent must provide proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

(6) **Actual Suspension "And Until" Restitution (Multiple Payees) with Conditional Std. 1.2(c)(1) Requirement:**

Respondent is suspended from the practice of law for _____, the execution of that suspension is stayed, and Respondent is placed on probation for _____ with the following conditions.

- Respondent must be suspended from the practice of law for a minimum for the first _____ of Respondent's probation, and Respondent will remain suspended until the following requirements are satisfied:
 - a. Respondent must make restitution, including the principal amount plus 10 percent interest per year (and furnish satisfactory proof of such restitution to the Office of Probation), to each of the following payees (or reimburse the Client Security Fund to the extent of any payment from the Fund to such payee in accordance with Business and Professions Code section 6140.5):

<i>Payee</i>	<i>Principal Amount</i>	<i>Interest Accrues From</i>

- b. If Respondent remains suspended for two years or longer, Respondent must provide proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

(7) **Actual Suspension with Credit for Interim Suspension:**

Respondent is suspended from the practice of law for _____, the execution of that suspension is stayed, and Respondent is placed on probation for _____ with the following conditions.

- Respondent is suspended from the practice of law for the first _____ of probation (with credit given for the period of interim suspension which commenced on _____).

E. Additional Conditions of Probation:

- (1) **Review Rules of Professional Conduct:** Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must (1) read the California Rules of Professional Conduct (Rules of Professional Conduct) and Business and Professions Code sections 6067, 6068, and 6103 through 6126, and (2) provide a declaration, under penalty of perjury, attesting to Respondent's

compliance with this requirement, to the State Bar's Office of Probation in Los Angeles (Office of Probation) with Respondent's first quarterly report.

- (2) **Comply with State Bar Act, Rules of Professional Conduct, and Probation Conditions:** Respondent must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all conditions of Respondent's probation.
- (3) **Maintain Valid Official Membership Address and Other Required Contact Information:** Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must make certain that the State Bar Attorney Regulation and Consumer Resources Office (ARCR) has Respondent's current office address, email address, and telephone number. If Respondent does not maintain an office, Respondent must provide the mailing address, email address, and telephone number to be used for State Bar purposes. Respondent must report, in writing, any change in the above information to ARCR, within ten (10) days after such change, in the manner required by that office.
- (4) **Meet and Cooperate with Office of Probation:** Within 15 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must schedule a meeting with Respondent's assigned probation case specialist to discuss the terms and conditions of Respondent's discipline and, within 30 days after the effective date of the court's order, must participate in such meeting. Unless otherwise instructed by the Office of Probation, Respondent may meet with the probation case specialist in person or by telephone. During the probation period, Respondent must promptly meet with representatives of the Office of Probation as requested by it and, subject to the assertion of applicable privileges, must fully, promptly, and truthfully answer any inquiries by it and provide to it any other information requested by it.
- (5) **State Bar Court Retains Jurisdiction/Appear Before and Cooperate with State Bar Court:** During Respondent's probation period, the State Bar Court retains jurisdiction over Respondent to address issues concerning compliance with probation conditions. During this period, Respondent must appear before the State Bar Court as required by the court or by the Office of Probation after written notice mailed to Respondent's official membership address, as provided above. Subject to the assertion of applicable privileges, Respondent must fully, promptly, and truthfully answer any inquiries by the court and must provide any other information the court requests.
- (6) **Quarterly and Final Reports:**
- a. **Deadlines for Reports.** Respondent must submit written quarterly reports to the Office of Probation no later than each January 10 (covering October 1 through December 31 of the prior year), April 10 (covering January 1 through March 31), July 10 (covering April 1 through June 30), and October 10 (covering July 1 through September 30) within the period of probation. If the first report would cover less than 30 days, that report must be submitted on the next quarter date and cover the extended deadline. In addition to all quarterly reports, Respondent must submit a final report no earlier than ten (10) days before the last day of the probation period and no later than the last day of the probation period.
- b. **Contents of Reports.** Respondent must answer, under penalty of perjury, all inquiries contained in the quarterly report form provided by the Office of Probation, including stating whether Respondent has complied with the State Bar Act and the Rules of Professional Conduct during the applicable quarter or period. All reports must be: (1) submitted on the form provided by the Office of Probation; (2) signed and dated after the completion of the period for which the report is being submitted (except for the final report); (3) filled out completely and signed under penalty of perjury; and (4) submitted to the Office of Probation on or before each report's due date.
- c. **Submission of Reports.** All reports must be submitted by: (1) fax or email to the Office of Probation; (2) personal delivery to the Office of Probation; (3) certified mail, return receipt requested, to the Office of Probation (postmarked on or before the due date); or (4) other tracked-service provider, such as Federal Express or United Parcel Service, etc. (physically delivered to such provider on or before the due date).

d. Proof of Compliance. Respondent is directed to maintain proof of Respondent's compliance with the above requirements for each such report for a minimum of one year after either the period of probation or the period of Respondent's actual suspension has ended, whichever is longer. Respondent is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.

- (7) **State Bar Ethics School:** Within one year after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must submit to the Office of Probation satisfactory evidence of completion of the State Bar Ethics School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and Respondent will not receive MCLE credit for attending this session. If Respondent provides satisfactory evidence of completion of the Ethics School after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.
- (8) **State Bar Ethics School Not Recommended:** It is not recommended that Respondent be ordered to attend the State Bar Ethics School because
- (9) **State Bar Client Trust Accounting School:** Within one year after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must submit to the Office of Probation satisfactory evidence of completion of the State Bar Client Trust Accounting School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and Respondent will not receive MCLE credit for attending this session. If Respondent provides satisfactory evidence of completion of the Client Trust Accounting School after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.
- (10) **Minimum Continuing Legal Education (MCLE) Courses – California Legal Ethics [Alternative to State Bar Ethics School for Out-of-State Residents]:** Because Respondent resides outside of California, within _____ after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must either submit to the Office of Probation satisfactory evidence of completion of the State Bar Ethics School and passage of the test given at the end of that session or, in the alternative, complete _____ hours of California Minimum Continuing Legal Education-approved participatory activity in California legal ethics and provide proof of such completion to the Office of Probation. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for this activity. If Respondent provides satisfactory evidence of completion of the Ethics School or the hours of legal education described above, completed after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.
- (11) **Criminal Probation:** Respondent must comply with all probation conditions imposed in the underlying criminal matter and must report such compliance under penalty of perjury in all quarterly and final reports submitted to the Office of Probation covering any portion of the period of the criminal probation. In each quarterly and final report, if Respondent has an assigned criminal probation officer, Respondent must provide the name and current contact information for that criminal probation officer. If the criminal probation was successfully completed during the period covered by a quarterly or final report, that fact must be reported by Respondent in such report and satisfactory evidence of such fact must be provided with it. If, at any time before or during the period of probation, Respondent's criminal probation is revoked, Respondent is sanctioned by the criminal court, or Respondent's status is otherwise changed due to any alleged violation of the criminal probation conditions by Respondent, Respondent must submit the criminal court records regarding any such action with Respondent's next quarterly or final report.
- (12) **Minimum Continuing Legal Education (MCLE):** Within _____ after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must complete _____ hour(s) of California Minimum Continuing Legal Education-approved participatory activity in **SELECT ONE** _____ and must

provide proof of such completion to the Office of Probation. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for this activity. If Respondent provides satisfactory evidence of completion of the hours of legal education described above, completed after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.

- (13) **Other:** Respondent must also comply with the following additional conditions of probation:
- (14) **Proof of Compliance with Rule 9.20 Obligations:** Respondent is directed to maintain, for a minimum of one year after commencement of probation, proof of compliance with the Supreme Court's order that Respondent comply with the requirements of California Rules of Court, rule 9.20, subdivisions (a) and (c). Such proof must include: the names and addresses of all individuals and entities to whom Respondent sent notification pursuant to rule 9.20; a copy of each notification letter sent to each recipient; the original receipt or postal authority tracking document for each notification sent; the originals of all returned receipts and notifications of non-delivery; and a copy of the completed compliance affidavit filed by Respondent with the State Bar Court. Respondent is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.
- (15) **The following conditions are attached hereto and incorporated:**
- Financial Conditions Medical Conditions
- Substance Abuse Conditions

The period of probation will commence on the effective date of the Supreme Court order imposing discipline in this matter. At the expiration of the probation period, if Respondent has complied with all conditions of probation, the period of stayed suspension will be satisfied and that suspension will be terminated.

F. Other Requirements Negotiated by the Parties (Not Probation Conditions):

- (1) **Multistate Professional Responsibility Examination Within One Year or During Period of Actual Suspension:** Respondent must take and pass the Multistate Professional Responsibility Examination administered by the National Conference of Bar Examiners within one year after the effective date of the Supreme Court order imposing discipline in this matter or during the period of Respondent's actual suspension, whichever is longer, and to provide satisfactory proof of such passage to the State Bar's Office of Probation within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).) If Respondent provides satisfactory evidence of the taking and passage of the above examination after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this requirement.
- (2) **Multistate Professional Responsibility Examination Requirement Not Recommended:** It is not recommended that Respondent be ordered to take and pass the Multistate Professional Responsibility Examination because
- (3) **California Rules of Court, Rule 9.20:** Respondent must comply with the requirements of California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order imposing discipline in this matter. Failure to do so may result in disbarment or suspension.

For purposes of compliance with rule 9.20(a), the operative date for identification of "clients being represented in pending matters" and others to be notified is the filing date of the Supreme Court order, not any later "effective" date of the order. (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45.) Further, Respondent is required to file a rule 9.20(c) affidavit even if Respondent has no clients to notify on the

date the Supreme Court filed its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or contempt, an attorney's failure to comply with rule 9.20 is, inter alia, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)

- (4) **California Rules of Court, Rule 9.20 – Conditional Requirement:** If Respondent remains suspended for 90 days or longer, Respondent must comply with the requirements of California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 days, respectively, after the effective date of the Supreme Court order imposing discipline in this matter. Failure to do so may result in disbarment or suspension.

For purposes of compliance with rule 9.20(a), the operative date for identification of "clients being represented in pending matters" and others to be notified is the filing date of the Supreme Court order, not any later "effective" date of the order. (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45.) Further, Respondent is required to file a rule 9.20(c) affidavit even if Respondent has no clients to notify on the date the Supreme Court filed its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or contempt, an attorney's failure to comply with rule 9.20 is, inter alia, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)

- (5) **California Rules of Court, Rule 9.20, Requirement Not Recommended:** It is not recommended that Respondent be ordered to comply with the requirements of California Rules of Court, rule 9.20, because

- (6) **Other Requirements:** It is further recommended that Respondent be ordered to comply with the following additional requirements:

8. On November 9, 2009, the Court issued an additional Minute Order, requiring changes to the terms of the Master Trust agreement. On January 25, 2010, the Court vacated the November 9, 2009 Order and set the matter for hearing on March 12, 2010.

9. At the March 12, 2010 hearing, the Court granted the previously filed First Amended Petition, with changes made to the terms of the Master Trust agreement. The Court requested that respondent prepare an amended order incorporating changes discussed during the hearing. Respondent was present at the hearing and received a copy of the March 12, 2010 Minute Order.

10. Respondent never prepared an amended order, and took no further action on behalf of her client or the conservatee.

11. On November 25, 2014, Probate Investigator Jennifer Young filed a petition to transfer venue of the matter to Tulare County Superior Court ("Petition to Transfer"), where the conservatee was then residing. The same day, notice of a January 15, 2015 hearing on the Petition to Transfer was filed. Respondent received the notice.

12. In early January 2015, respondent spoke to her client over the phone, and respondent confirmed to her client that she would appear at the January 15, 2015 hearing.

13. On January 15, 2015, a hearing on the Petition to Transfer was held, and respondent did not appear. The Court issued an Order to Show Cause ("January 2015 OSC") to respondent and respondent's client "as to why sanctions should not be imposed for failure to prepare a court order as requested on 3/12/10." The Court ordered respondent and respondent's client to appear on March 5, 2015, and ordered respondent to report on the status of the conservatorship funds. Respondent received a copy of the January 15, 2015 Minute Order, but failed to appear on March 5, 2015.

14. On March 5, 2015, the Court ordered respondent to appear on April 30, 2015, and imposed sanctions against respondent in the amount of \$100, payable by April 30, 2015. Respondent received a copy of the March 5, 2015 Minute Order, but failed to appear on April 30, 2015 and failed to pay the \$100 sanction until April 24, 2017.

15. Respondent's client retained attorney Stanley Teixeira ("Teixeira") to represent her as conservator shortly after the March 5, 2015 hearing. Teixeira attempted to contact respondent but never received a response. On April 20, 2015, Teixeira filed a motion to substitute into the case, despite respondent's failure to return a substitution of attorney form.

16. After making multiple attempts to contact respondent by phone, mail, and email, Teixeira prepared the order originally requested by the Court on March 12, 2010, which the Court signed and filed on June 17, 2015. Respondent received a copy of the June 17, 2015 Order.

17. In July 2016, the matter was transferred to Tulare County Superior Court and assigned to the Honorable Bret D. Hillman under case no. VPR047489. Respondent received notice of the transfer and assignment.

18. On November 14, 2016, the Court issued an Order to Show Cause ("November 2016 OSC") for respondent to appear on December 12, 2016, and provide information regarding the conservatee's funds. Respondent received the November 2016 OSC, but failed to appear on December 12, 2016.

19. On December 12, 2016, the Court imposed sanctions against respondent in the amount of \$300, payable immediately. The Court issued another Order to Show Cause ("December 2016 OSC"), and ordered respondent to appear on February 1, 2017. Respondent received the December 2016 OSC, but failed to appear on February 1, 2017, and did not pay the \$300 sanction until April 21, 2017.

20. On May 26, 2017, respondent sent a check in the amount of \$50,781.60 to the Master Trust on behalf of the conservatee.

CONCLUSIONS OF LAW:

21. By failing to prepare an Order as directed by the Court on March 12, 2010, that would have enabled respondent to invest the conservatee's funds in a pooled special needs trust and transfer, by failing to appear at multiple hearings on a petition to transfer the conservatee's proceeding to another venue, and by failing to appear before the Court on multiple occasions to inform the conservator and the Court of the status of the entrusted funds in violation of the Court's Orders, respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, former rule 3-110(A).

22. By failing to appear on March 5, 2015, as ordered by the Court on January 15, 2015, by failing to appear on April 30, 2015, or timely pay sanctions, as ordered by the Court on March 5, 2015, by failing to appear on December 12, 2016, as ordered by the Court on November 14, 2016, and by failing to appear on February 1, 2017, or timely pay sanctions, as ordered by the Court on December 12, 2016, respondent disobeyed or violated an order of the Court requiring respondent to do an act connected the course of respondent's profession, which respondent ought in good faith to do, in willful violation of Business and Professions Code, section 6103.

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.5(a)): In State Bar case no. 04-O-14636, respondent stipulated to a public reproof for a period of two years, effective April 15, 2009, with conditions including respondent's attendance of Ethics School and successful passage of the MPRE. In that matter, respondent failed to perform legal services as counsel for the executor in a probate matter and failed to communicate with her client, causing an unnecessary delay in probate proceedings. In aggravation, respondent's misconduct significantly harmed the client and the administration of justice. In mitigation, respondent had no prior record of discipline, suffered extreme difficulties in her personal life related to her family, and demonstrated remorse for her misconduct.

Multiple Acts of Wrongdoing (Std. 1.5(b)): Respondent committed two acts of misconduct, which constitute multiple acts of wrongdoing.

Significant Harm to Client, Public or Administration of Justice (Std. 1.5(j)): Respondent's misconduct delayed the funding of a special needs trust for the conservatee by approximately seven years. During that time, the Court spent extensive time and resources trying to determine the status of the entrusted funds, and the conservatee was deprived of the use of the funds, as well as the income

generated by the trust corpus. Respondent's failure to respond to the Court also delayed the transfer of the proceeding to the venue where the conservatee resided.

Highly Vulnerable Victim (Std. 1.5(n)): Respondent was the attorney for Conservator, acting for the benefit of the conservatee, who is severely physically and developmentally disabled, and adversely affected by respondent's misconduct.

MITIGATING CIRCUMSTANCES.

Extraordinary Good Character (Std. 1.6(f)): Respondent has provided eight letters from members of the legal and general community. The letter writers express that they are familiar with respondent and aware of respondent's misconduct, but nevertheless attest to respondent's good moral character and legal abilities.

Pro Bono and Community Service: Respondent has provided evidence of pro bono work performed for needy and vulnerable clients, including those affected by HIV/AIDS. Respondent has also provided evidence of community service, including fundraising for the Kingsburg Rotary Club, of which she is a board member and officer, serving as President and Scholarship Chair for Fresno County Women Lawyers, and serving as a committee chair and editorial board member of the National Academy of Elder Law Attorneys. Respondent is entitled to mitigation for her pro bono and community service. (*In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521 [where the attorney's community service and other pro bono activities were held to be a mitigating circumstance].)

Extreme Emotional, Physical, or Mental Difficulties and Disabilities: During the time in which she committed the misconduct, respondent was dealing with the unexpected death of her husband of 22 years. Respondent experienced a prolonged period of intense grief, and also expended significant time handling the personal and business affairs of her deceased husband. Respondent has since recovered. (*In the Matter of Deierling* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr 676 [mitigation given where attorney's substance addiction contributed to misconduct and attorney demonstrated recovery, even without expert testimony].)

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].)

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, Standards for Attorney Sanctions for Prof. Misconduct, Standard 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 Standard 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

Although not binding, the Standards are entitled to “great weight” and should be followed “whenever possible” in determining level of discipline. (*In re Silvertown* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the Standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) If a recommendation is at the high end or low end of a Standard, an explanation must be given as to how the recommendation was reached. (Standard 1.1.) “Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure.” (Standard 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. (Standard 1.7(b) and (c).)

Additionally, Standard 1.8(a) provides that “If a member has a single 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.” Here, respondent had a prior public reproof for similar misconduct that became effective in 2009, and is therefore was not remote in time. Consequently, respondent’s level of discipline should be greater than a public reproof.

Standard 1.7(a) requires that where a respondent “commits two or more acts of misconduct and the Standard specify different sanctions for each act, the most severe sanction must be imposed.” Applying Standard 1.7(a), the most severe sanction applicable to respondent’s misconduct is found in Standard 2.12(a), which provides: “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).”

Here, respondent’s misconduct is serious and aggravated by a prior record of discipline, multiple acts of wrongdoing, and significant harm. Respondent is entitled to mitigation credit for good moral character, pro bono work, community service, extreme emotional difficulties relating to the death of her husband, and for entering into a pretrial stipulation. Taking into account the nature of respondent’s misconduct, aggravation and mitigation, an actual suspension at the lower end of the range is warranted.

Case law is instructive. In *Layton v. State Bar* (1990) 268 Cal. Rptr. 845, the Court imposed a 30-day actual suspension for an attorney who violated Rules of Professional Conduct, rule 3-110 (then rule 6-101) and Business and Professions Code, section 6103. In that matter, the attorney had been hired as counsel and executor for a deceased client’s estate, which he mismanaged and failed to close for approximately five years. The attorney received mitigation credit for his 30 years of practice without prior discipline. There was no aggravation.

In *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, the court recommended a six-month stayed suspension for an attorney who failed to perform in a criminal appellate and habeas corpus proceedings, failed to obey court orders and failed to report sanctions in a single client matter. In aggravation, the court found multiple acts of misconduct and harm. In mitigation, the court found no

prior record of discipline in 17 years of practice, no further misconduct, good character and cooperation for entering into a fact stipulation.

Relative to *Layton* and *Riordan*, there is greater aggravation for respondent's prior record of discipline, but also additional mitigation for respondent's extreme emotional difficulties. On balance, an actual suspension of 60 days is 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>
17-O-00109-MC	2	Rules of Professional Conduct, former rule 3-700(A)(2)
17-O-00109-MC	4	Rules of Professional Conduct, former rule 4-100(A)

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of February 1, 2019, the discipline costs in this matter are \$3,857. 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.

(Do not write above this line.)

In the Matter of:
RUTH ELLEN RATZLAFF

Case Number(s):
17-O-00109-MC

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.

2/4/2019

Date



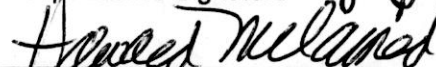
Respondent's Signature

Ruth Ellen Ratzlaff

Print Name

2-6-2019

Date



Respondent's Counsel Signature

Howard L. Melamed

Print Name

2/7/19

Date



Deputy Trial Counsel's Signature

Carla Cheung

Print Name

(Do not write above this line.)

In the Matter of: RUTH ELLEN RATZLAFF	Case Number(s): 17-O-00109
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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.


On page 2 of the Stipulation, paragraph B.(1)(c), "6106" is deleted and "6068, subdivision (m)" is inserted.

On page 3 of the Stipulation, paragraph B.(8), "page 14" is deleted and "pages 13-14" is inserted.

On page 13 of the Stipulation, seventh paragraph, line 1, "two acts" is deleted and "seven acts" is inserted.

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 Rules Proc. of State Bar, rule 5.58(E) & (F).) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after the filed date of the Supreme Court order. (See Cal. Rules of Court, rule 9.18(a).)**

3/8/19
Date


MANJARI CHAWLA
Judge of the State Bar Court

(Do not write above this line.)

State Bar Court of California Hearing Department San Francisco		
Counsel For The State Bar Allen Blumenthal 180 Howard Street San Francisco, CA 94105 Bar # 110243	Case Number (s) 04-O-14636 PUBLIC MATTER	(for Court's use) <div style="text-align: center;">FILED</div> <div style="text-align: center;">MAR 25 2009</div> <div style="text-align: center;">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</div>
Counsel For Respondent Paul S. Hokokian 1713 Tulare Street, Suite 204 Fresno, CA 93721 Bar # 91660	Submitted to: STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING PUBLIC REPROVAL <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter Of: Ruth Ratzlaff 968 Sierra Street, #128 Kingsburg, CA 93631 Bar # 87615 A Member of the State Bar of California (Respondent)		

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **November 29, 1979**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **11** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."

(Do not write above this line.)

- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- costs added to membership fee for calendar year following effective date of discipline (public reproof)
 - case ineligible for costs (private reproof)
 - costs to be paid in equal amounts for the following membership years:
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
 - costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
 - costs entirely waived
- (9) The parties understand that:
- (a) A private reproof imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
 - (b) A private reproof imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
 - (c) A public reproof imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

- (1) **Prior record of discipline** [see standard 1.2(f)]
- (a) State Bar Court case # of prior case
 - (b) Date prior discipline effective
 - (c) Rules of Professional Conduct/ State Bar Act violations:
 - (d) Degree of prior discipline
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline."
- (2) **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.

(Do not write above this line.)

- (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. **Respondent's long delay of this matter denied the beneficiaries their money for a substantial period of time.**
- (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 with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) **Good Faith:** Respondent acted 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.

(Do not write above this line.)

- (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) **Private reproof (check applicable conditions, if any, below)**
- (a) Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).
- (b) Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).

or

- (2) **Public reproof (Check applicable conditions, if any, below)**

E. Conditions Attached to Reproof:

- (1) Respondent must comply with the conditions attached to the reproof for a period of **two years**.
- (2) During the condition period attached to the reproof, 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 condition period attached to the reproof. 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 the reproof during the preceding calendar quarter. Respondent must also state in each report whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 (thirty) days, that report must be submitted on the next following quarter date, and cover the extended period.

(Do not write above this line.)

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the condition period and no later than the last day of the condition period.

- (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 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 monitor.
- (7) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the conditions attached to the reprobation.
- (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) Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year of the effective date of the reprobation.
- No MPRE recommended. Reason: _____
- (11) 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:

(Do not write above this line.)

Attachment language (if any):

FACTS AND CONCLUSIONS OF LAW

Facts:

1. Respondent was admitted to the practice of law in California on November 29, 1979 and has been a member of the State Bar at all times pertinent herein and is currently a member of the State Bar.
2. On September 9, 1997, respondent filed a will she had drafted three years earlier for Harold P. Hanson's ("Hanson") with the Superior Court of California, County of Fresno and assigned case number 5964424 (the "Hanson matter"). Hanson had died on August 23, 1997.
3. On October 21, 1997, the Court appointed Mr. Frank J. Volpa ("Volpa") as the executor of the estate. Thereafter, respondent represented Volpa in his capacity as the executor of Hanson's estate.
4. Subsequently, respondent failed to diligently perform any substantial acts to complete the matter, including failing to marshal the assets and file an inventory and appraisal of the estate, as request.
5. On March 23, 1998, the Court sent respondent Notice re: Unnecessary Delay in Probate, warning her that continued failure to file an inventory and appraisal could lead to the removal of Volpa as the personal representative for the estate. Subsequently, respondent failed to complete the matter or take any substantial acts on behalf of the estate, including failing to file the inventory and appraisal.
6. On December 23, 1998, respondent filed a Status Report regarding the administration of the Hanson estate. Therein, respondent informed the Court that Hanson owned real property in Montana which required the opening of an ancillary probate in that state. That same day the Court continued the Hanson matter to August 18, 1999.
7. During 1998, respondent communicated with Volpa only two times regarding the Hanson matter.
8. Between December 23, 1998 and August 18, 1999, respondent failed to complete the matter or take any substantive acts on behalf of the estate, including failing to file the inventory and appraisal.
9. On August 18, 1999, respondent filed a Status Report with the Court regarding the administration of the Hanson estate. Therein, respondent informed the Court that she had "no valid excuse for the delay in administering this estate. The delay is due to my inactivity, and no fault of the client." Respondent requested the Court to grant an additional six months to close the estate and informed the Court that she had engaged the services of Mr. Raymond A. Love ("Love"), a professional fiduciary to assist her with the inventories and accountings. The Court continued the matter to April 4, 2000.
10. During 1999, respondent failed to communicate with Volpa at all.
11. Between August 18, 1999 and April 14, 2008, respondent failed to complete the matter or take any substantial acts on behalf of the estate, including failing to file the inventory and appraisal.

(Do not write above this line.)

12. On April 4, 2000, respondent filed a Status Report, indicating that Love should have the first accounting within ninety days and, at that time, she would have more information as to how long the Montana ancillary probate would take to close.

13. Between April 4, 2000 and September 25, 2000, respondent failed to complete the matter or take any substantial acts on behalf of the estate.

14. On September 25, 2000, respondent filed a Status Report along with a declaration by Volpa which stated to the Court that the "Montana ancillary probate could not be completed until the California inventories were finalized, which had only happened this week due to the complex nature of the decedent's investments. I estimate it may take another six months to complete the Montana portion of the estate administration, which must take place before the final distribution can be made." However, the Montana probate had not yet been opened. The Court continued the matter to March 26, 2001.

15. At a hearing on the Hanson estate held on September 26, 2000, respondent stated to the Court that "[b]ecause we have an ancillary probate in Montana and we keep finding more assets here and they have some sort of inheritance tax so they need to know how much we've got, so six months[.]" additional time would be needed to complete the administration of the estate. At this hearing, respondent failed to inform the Court that no ancillary probate had yet been opened in Montana.

16. During 2000, respondent communicated with Volpa only three times regarding the Hanson matter.

17. Between September 26, 2000 and March 21, 2001, respondent failed to complete the matter or take any substantial acts on behalf of the estate.

18. On March 26, 2001, respondent filed the First Account and Report in which she informed the Court that the Montana estate had yet to be administered, but in her filing, respondent failed to inform the Court that the ancillary probate in Montana was still not opened.

19. On May 14, 2001, the Court approved the first accounting and the request for partial allowance of the fees, petitioner's fees and respondent's fees, explicitly relying on respondent's assurance that she had copies, if not the originals, of the pleadings from the Montana ancillary probate in her office. At this hearing, respondent again failed to inform the Court that the ancillary probate in Montana had not yet been opened.

20. From May 2001 until October 2004, respondent failed to file any further Status Reports with the Court in regards to the Hanson estate or otherwise prosecute the matter.

21. During 2001, respondent communicated with Volpa only four times regarding the Hanson matter.

22. During 2002 and 2003, respondent failed to communicate with Volpa at all regarding the Hanson matter.

23. On August 26, 2004, the Court ordered respondent to appear at a Status Hearing regarding her failure to file a Petition for Final Distribution and set the matter for September 30, 2004. The hearing, however, was continued to October 21, 2004.

24. On September 14, 2004, respondent submitted a letter to the State Bar in response to its letter to her regarding a complaint against her involving the Hanson estate. In that letter, respondent stated that she was in the process of initiating the ancillary probate in Montana.
25. On September 22, 2004, respondent contacted Ms. Nancy Gibson ("Gibson"), a Montana attorney, about opening an ancillary probate on behalf of the Hanson estate.
26. On October 21, 2004, respondent filed a Status Report with the Court and, at a hearing on the same date, informed the Court that the Hanson estate remained open because the ancillary probate proceedings had not yet been concluded. She further informed the Court that she had sent the necessary paperwork to Montana on October 8, 2004. The Court continued the matter to January 20, 2005.
27. During 2004, respondent communicated with Volpa only once regarding the Hanson matter.
28. At the hearing on the Hanson estate held on January 20, 2005, respondent informed the Court that the Montana probate proceedings had been initiated. The Court continued the matter to April 21, 2005 and later continued it to July 21, 2005.
29. The Montana probate of the Hanson estate was opened on April 8, 2005. The ancillary probate was assigned Pondera County (Montana) Superior Court case number PR 0510.
30. On July 21, 2005, respondent filed a Status Report and informed the Court that she was in the process of finalizing the federal estate tax for the Montana property.
31. During 2005, respondent communicated with Volpa only three times regarding the Hanson matter.
32. On January 22, 2007, respondent sent the required documents to Gibson.
33. On March 13, 2007, Gibson contacted respondent to inform her that the documents relating to the ancillary probate of the Hanson estate had been recorded and returned to her office. Gibson further explained that the closing statement was not required.
34. On June 19, 2007, respondent filed a Second and Final Accounting and informed the Court by declaration that the Montana estate had been administered.
35. On October 9, 2007, the Court issued its Order on First Amended Second and Final Account and Report of Personal Representative and Petition for its Settlement, for Allowance of Balance of Petitioner's and Attorney's Fees for Ordinary Services, and for Final Distribution, finally closing the Hanson estate matter ten years after it was opened.
36. The delay between the last Inventory and Appraisal, which was filed on March 21, 2001 and the final closing of the estate, some seven years later caused the Hanson estate to incur an additional \$7,778.72 in interest owed on Montana inheritance taxes. Respondent paid this amount to the State of Montana out of her own pocket.

(Do not write above this line.)

37. Since 2006, respondent stopped communicating with Volpa regarding the Hanson matter except for a single contact in November 2007 to retrieve a check for her services from Volpa for the amount approved in the final accounting. For the past three years, Volpa has only communicated with Love regarding the Hanson estate.

Conclusions of Law:

By repeatedly delaying the opening of the ancillary probate proceedings in Montana and by prolonging the closing of the Hanson estate in California for over ten years, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence and, as such, willfully violated rule 3-110(A) of the Rules of Professional Conduct.

By failing to keep Volpa reasonably informed regarding the Hanson matter for which he served as executor and respondent as his counsel, respondent failed to keep her client reasonably informed of significant developments in a matter or matters with regard to which the attorney has agreed to provide legal services in willful violation of section 6068(m) of the Business and Professions Code.

PENDING PROCEEDINGS

The disclosure date referred to, on page one, paragraph A.(7) was February 24, 2009.

FACTS SUPPORTING MITIGATING CIRCUMSTANCES

Lack of Prior Discipline – Std. 1.2(e)(i)

Absence of any prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.

Personal Difficulties (Family Problems) – Std. 1.2(e)(iv)

At the time of the misconduct, respondent suffered extreme difficulties in her personal life. Between 1997 and 1999, respondent's mother was in failing health which required respondent to take time away from her law practice in order to take her to medical appointments. After respondent's mother passed away in 1999, respondent was concerned that her father now lived alone and made many trips to his home to check on him.

Beginning in 2001, respondent's father's health began to fail and respondent was called upon to monitor his health and well-being over the next several years until his death in 2005.

AUTHORITIES SUPPORTING DISCIPLINE

Standard 2.4(b) recommends reproof or suspension for willfully failing to perform services depending on the extent of misconduct and the degree of harm to the client. Standard 2.6 recommends disbarment or suspension for violating section 6068 of the Business and Professions Code with due regard for the purposes of imposing discipline set forth in standard 1.3.

The Supreme Court recently re-affirmed that great weight is to be given the standards and that they should be followed whenever possible. (*In re Silverton* (2005) 36 Cal.4th 81, 92.)

(Do not write above this line.)

Thus, while the Standards are not mandatory, the Supreme Court has held that they should be followed unless the charged attorney can demonstrate the existence of extraordinary circumstances justifying a lesser sanction. (*In re Silverton*, supra, 36 Cal.4th at 92.) That is, it is Respondent's burden to demonstrate that there are extraordinary circumstances justifying a lesser sanction than that recommended by the Standards.

An isolated failure to perform by an attorney has resulted in public and private reprovals to actual suspensions in the past. See *Samuelson v. State Bar* (1979) 23 Cal.3d 558; *In the Matter of Respondent G* (Review Dept., 1992) 2 Cal. State Bar Ct. Rptr. 175; *Conroy v. State Bar* (1990) 51 Cal.3d 799; *Harris v. State Bar* (1990) 51 Cal.3d 1082. In *Samuelson*, the attorney failed to perform in a probate matter and received a public reproof. In *Respondent G*, the attorney also neglected a probate matter, warranting a private reproof. In *Conroy*, the court, in a footnote, reported that the attorney had received a prior discipline of a private reproof for misconduct in three client matters for failing to return a file, abandoning a client which resulting in an arrest warrant being issued for the client, and failing to file an inventory in an estate matter. In *Harris*, the attorney received a three month actual suspension when the client suffered substantial prejudice and the attorney showed no remorse. Harris had 20 years of practice with no priors.

Respondent claims that she had extensive responsibilities arising from the care of her aging parents during the pendency of the Hanson estate matter. Given her lack of any prior discipline in nearly thirty years of practicing law and credit for stipulating in this matter, and her showing of remorse, the recommended discipline for respondent is a public reproof, including Ethics School and taking and passing the Multistate Professional Responsibility Examination, as a means to protect the public, maintain high professional standards, and preserve public confidence in the legal profession.

(Do not write above this line.)

In the Matter of Ruth Ratzlaff	Case number(s): 04-O-14636
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SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Fact, Conclusions of Law and Disposition.

3-2-09
Date

Mar 4, 2009
Date

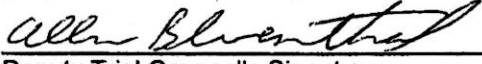
March 9, 2009
Date


Respondent's Signature

Ruth Ratzlaff
Print Name


Respondent's Counsel Signature

Paul S. Hokokian
Print Name


Deputy Trial Counsel's Signature

Allen Blumenthal
Print Name

(Do not write above this line.)

In the Matter Of Ruth Ratzlaff	Case Number(s): 04-O-14636
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ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproof, 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 REPROVAL IMPOSED.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- All court dates in the Hearing Department are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 125(b), Rules of Procedure.) **Otherwise the stipulation shall be effective 15 days after service of this order.**

Failure to comply with any conditions attached to this reproof may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.

3.20.09
Date

[Signature]
Judge of the State Bar Court
W. Armendariz

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on March 25, 2009, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

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

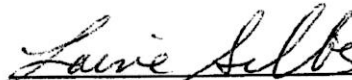
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

PAUL SUREN HOKOKIAN
FRESNO STATION BUSINESS CENTER
1713 TULARE ST STE 204
FRESNO, CA 93721

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

ALLEN BLUMENTHAL, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on March 25, 2009.



Laine Silber
Case Administrator
State Bar Court

The document to which this certificate is affixed is a full, true and correct copy of the original on file and of record in the State Bar Court.



ATTEST August 24, 2018
State Bar Court, State Bar of California,
Los Angeles

By *Cristina Datta*
Clerk

CERTIFICATE OF SERVICE

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

I am a Court Specialist of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on March 8, 2019, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

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

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

HOWARD RICHARD MELAMED
319 LENNON LN
WALNUT CREEK, CA 94598 - 2418

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

CARLA L. CHEUNG, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on March 8, 2019.



Bernadette Molina
Court Specialist
State Bar Court