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State Bar Court of California
Hearing Department
Los Angeles
ACTUAL SUSPENSION

PUBLIC MATTER

<p>Counsel for the State Bar</p> <p>Katherine Kinsey Deputy Trial Counsel 845 S. Figueroa Street Los Angeles, CA 90017 213-765-1503</p> <p>Bar # 183740</p>	<p>Case Number(s): 18-J-10460</p> <p>kwiktag® 241 070 314</p> 	<p>For Court use only</p> <p>FILED L.S. OCT 19 2018</p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p>Amy Louise Butters Butters Law, P.C. PO Box 150830 Ogden, Utah, 84415 801-513-3328</p> <p>Bar # 212072</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of:</p> <p>AMY LOUISE BUTTERS</p> <p>Bar # 212072</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 **December 29, 2000**.
- (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."

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- (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. One-half of the costs must be paid with Respondent's membership fees for each of the following years: 2019 and 2020.
- 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: **14-J-05674, See page 14 and Exhibit 1, 13 pages**
- (b) Date prior discipline effective: **December 1, 2015**
- (c) Rules of Professional Conduct/ State Bar Act violations: **Rules of Professional Conduct, rules 3-700(D)(2) and 4-100(B)(3) and Business and Professions Code sections 6068(i) and 6068(m)**
- (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.

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- (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. **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 14.**
- (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 [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.

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- (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 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.
- (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.

D. Recommended Discipline:

- (1) **Actual Suspension:**
- Respondent is suspended from the practice of law for **one (1) year**, the execution of that suspension is stayed, and Respondent is placed on probation for **one (1) year** with the following conditions.
- Respondent must be suspended from the practice of law for the first **ninety (90) 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.

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- 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

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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

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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 **respondent resides in Utah.**
- (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 **one (1) year** 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 **six (6) 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

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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 **respondent was ordered to take and pass the MPRE as a probation condition in prior discipline matter, case no. 14-J-05674. On December 16, 2016, respondent provided proof to the Office of Probation that she took and passed the MPRE on November 26, 2016.**
- (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,

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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:

6. On February 2, 2012, respondent filed a Chapter 13 bankruptcy petition on behalf Sherri Duckworth and Bobby Duckworth.

7. On February 3, 2012, the bankruptcy court served respondent with a deficiency notice in regards to the Duckworths' bankruptcy petition, advising respondent that the filing fees had not been paid. Respondent received the deficiency notice. Respondent did not pay the filing fees. On March 8, 2012, the court dismissed the bankruptcy petition.

8. On March 29, 2012, respondent filed a second Chapter 13 bankruptcy petition on behalf of the Duckworths. Respondent failed to pay the filing fees. On April 6, 2012, the second Chapter 13 petition was dismissed by the court.

9. On April 9, 2012, respondent filed a third Chapter 13 bankruptcy petition on behalf of the Duckworths. On February 25, 2013, the Duckworths Chapter 13 bankruptcy plan was confirmed.

10. On May 30, 2013, the Chapter 13 Trustee in the Duckworths' bankruptcy filed a motion to dismiss the bankruptcy petition due to the Duckworths failure to comply with the Chapter 13 payment plan.

11. On June 28, 2013, respondent filed an objection to the dismissal as well as a motion to abate. On July 31, 2013, the bankruptcy court sustained respondent's objections to the dismissal of the Duckworths' bankruptcy petition. The Court ordered respondent to file the order sustaining the objection to the dismissal by August 14, 2013. Respondent failed to file the order.

12. On August 16, 2013, the bankruptcy court issued an order to show cause (OSC) for August 30, 2013 regarding why the Chapter 13 bankruptcy petition should not be dismissed based on respondent's failure to submit the proposed order. Respondent received notice of the OSC but did not file a response to the OSC.

13. On October 9, 2013, the court dismissed the bankruptcy petition. Respondent received notice of the dismissal of the bankruptcy petition.

14. On November 14, 2013, Mrs. Duckworth sent a letter to respondent, which terminated respondent's employment and requested the return of the \$1699 in fees and costs. In addition, Mrs. Duckworth requested reimbursement of the \$275 in attorney fee she would have to pay new counsel to complete the bankruptcy. Respondent received the letter.

15. On November 20, 2013, Mrs. Duckworth employed new counsel to complete the bankruptcy.

Fierro Matter

16. On May 25, 2013, Mr. Fierro employed respondent to file a Chapter 7 bankruptcy petition on his behalf. Mr. Fierro paid \$1000 in attorney fees to respondent.

17. On June 14, 2013, respondent filed a Chapter 7 bankruptcy petition on Mr. Fierro's behalf.

18. On June 30, 2013, the bankruptcy court served respondent with a 341 Creditor's Meeting Notice, scheduled for July 25, 2013. Respondent received the notice.

19. Mr. Fierro was scheduled to be out of town on July 25, 2013, the day of the 341 Creditor's Meeting. On July 10, 2013, respondent represented to Mr. Fierro that she would file a motion for a

telephonic appearance at the 341 Creditor's Meeting on his behalf. Respondent did not file the motion for telephonic appearance.

20. On July 23, 2013, respondent told Mr. Fierro she would reschedule the 341 Creditor's Meeting because Mr. Fierro was still in Texas. Respondent did not file the motion for a telephonic appearance and did not request a continuance.

21. On July 25, 2013, neither respondent nor Mr. Fierro appeared at the 341 Creditor's Meeting. On September 3, 2013, the bankruptcy trustee filed a motion to dismiss the Chapter 7 bankruptcy petition. Respondent received the motion to dismiss.

22. Respondent did not immediately inform Mr. Fierro that she did not appear at the 341 Creditor's Meeting.

23. On September 6, 2013, Mr. Fierro received the notice of the Trustee's motion to dismiss and sent a text to respondent regarding her failure to appear at the 341 Creditor's Meeting. Respondent told Mr. Fierro that she would file a new bankruptcy on his behalf. No objection to the dismissal was filed. Therefore, on October 25, 2013, Mr. Fierro's first Chapter 7 bankruptcy case was closed.

24. On September 10, 2013, respondent filed a second Chapter 7 bankruptcy petition on Mr. Fierro's behalf. On September 25, 2013, the bankruptcy court served respondent with a 341 Creditor's Meeting notice, scheduled for October 16, 2013. Respondent received the notice.

25. In October 2013, Mr. Fierro received emails from respondent stating he could appear at the October 16, 2013 341 Creditor's Meeting by telephone. Respondent acknowledges this was a miscommunication.

26. Because Mr. Fierro was in Colorado, respondent told Mr. Fierro she would file a motion to reschedule the October 16, 2013 Creditor's Meeting. Respondent did not file the motion.

27. Respondent appeared at the October 16, 2013 341 Creditor's Meeting; however, Mr. Fierro did not appear at the meeting. On October 18, 2013, the Chapter 7 Trustee filed a recommendation to dismiss the bankruptcy petition. The objection to dismissal was due on November 12, 2013. Respondent received the recommendation to dismiss but did not file an objection to the dismissal.

28. On November 20, 2013, the bankruptcy court issued an Order dismissing the bankruptcy petition. Respondent received the order.

29. On June 25, 2014, Mr. Fierro submitted a complaint against respondent with the Utah State Bar. After the complaint was filed, respondent told Mr. Fierro that she would refund part of the money she owed him. Respondent asked Mr. Fierro to withdraw his complaint against her.

30. Mr. Fierro and respondent arrived at an agreement in which respondent agreed to refund \$800 of the \$1000 attorney's fees paid by Mr. Fierro. Mr. Fierro subsequently received \$800 from respondent. Mr. Fierro contacted the Utah State Bar to withdraw his complaint.

CONCLUSIONS OF LAW:

31. As a matter of law, respondent's culpability of professional misconduct determined in the proceeding in Utah warrants the imposition of discipline under the laws and rules binding upon

respondent in the State of California at the time respondent committed the misconduct in the other jurisdiction, pursuant to Business and Professions Code section 6049.1, subdivision (a).

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.5(a)): In Case No. 14-J-05674, effective December 1, 2015, discipline was imposed as to respondent, consisting of a public reproof. In Case No. 14-J-05674, respondent stipulated that her culpability for professional misconduct determined in the proceedings in Utah warranted the imposition of discipline under the law and rules binding upon respondent in California pursuant to Business and Professions Code section 6049.1. In the Utah Proceedings, the Utah Supreme Court imposed the discipline for violations of Utah Rule of Professional Conduct rule 1.15(d)[failure to account]; rule 1.16 [failure to properly withdraw from representation (failure to return unearned fees)]; rule 1.4(a)[failure to promptly respond to reasonable inquiries of clients; and rule 8.1(b)[failure to cooperate in the bar investigation.] Respondent stipulated to the following equivalent violations in California: Rule of Professional Conduct, rules 4-100(B)(3)[failure to account], 3-700(D)(2)[failure to promptly return unearned fees] and Business and Professions Code sections 6068(m)[failure to respond to client inquiries] and 6068(i)[failure to cooperate in a State Bar investigation]. The misconduct in the prior matter occurred between May 2012 and August 2012.

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent's misconduct consisting of failing to perform, failing to promptly returned unearned fees, failing to deposit client funds in trust, failing to cooperate in a State Bar investigation, failing to inform client of significant developments, and seeking an agreement to withdraw a State Bar complaint evidences multiple acts of wrongdoing. (*In the Matter of Bach* (1991) 1 Cal. State Bar Ct.Rptr. 931, 947 [three instances of misconduct sufficient to support a finding that a respondent engaged in multiple acts of misconduct.]

Harm to the Client (Std. 1.5(f)): Respondent caused significant harm to her clients because the Duckworths had to pay subsequent counsel \$275 in attorney fees to have the dismissal set aside and complete their bankruptcy.

MITIGATING CIRCUMSTANCES.

Prefiling Stipulation: By entering into this stipulation, respondent has acknowledged her 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].) However, this mitigation is tempered by respondent's failure to cooperate in the Utah State Bar's investigation of the Fierro matter.

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 was found culpable of professional misconduct in another jurisdiction, and to determine the appropriate sanction in this proceeding, it is necessary to consider the equivalent rule or statutory violation under California law. Specifically, respondent’s misconduct in the other jurisdiction demonstrates violations of Business and Professions Code sections 6068(i)[failure to cooperate in a State Bar investigation], 6068(m)[failure to inform client of significant developments] and 6090.5[seeking an agreement to withdraw a State Bar complaint] as well as Rules of Professional Conduct, rules 3-110(A)[failure to perform], 3-700(D)(2)[failure to promptly return unearned fees] and 4-100(A)[failure to deposit client funds in trust].

Respondent has one prior record of discipline. Standard 1.8(a) states that when a respondent has a single prior record of discipline, the sanction for the current misconduct must be greater than the previously-imposed discipline. In 2015, respondent received a public reproof arising out of her failure to account, failure to respond to reasonable inquiries from a client, failure to return unearned fees and her failure to cooperate in a State Bar investigation. However, the misconduct in the prior discipline occurred between May 2012 and August 2012, which falls within the period of misconduct in the present matter, which occurred between March 2012 and October 2014. Further, the State Bar matter in the prior discipline was initiated on October 31, 2014 and the stipulation in the prior discipline was filed on November 5, 2015.

Pursuant to *In the Matter of Hagen* (1992) 2 Cal. State Bar Ct. Rptr. 153, the weight of respondent’s prior record of discipline is greatly diminished as an aggravating factor because the misconduct in the present matter occurred at the same time as the misconduct in the prior discipline as well as before the imposition of her prior discipline. Applying *In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602, respondent’s prior and present misconduct should be considered as one disciplinary matter when determining the appropriate level of discipline in the present matter.

Considering the prior and present misconduct together, respondent is culpable of committing twelve acts of professional misconduct in three client matters. 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 arises from the violation of Business and Profession Code section 6090.5. Pursuant to section 6090.5, “suspension, disbarment or other discipline” is warranted for a member who seeks an agreement that a disciplinary complaint be withdrawn. Further Standard 2.7(b) applies to respondent’s violation of Rules of Professional Conduct, rule 3-110(A) and Business and Professions Code section 6068(m). Specifically Standard 2.7(b) states “[a]ctual suspension is the presumed sanction for performance, communication, or withdrawal violations in multiple client matters, not demonstrating habitual disregard of client matters.”

While respondent should receive mitigation for entering into a pre-filing stipulation, the aggravation outweighs the mitigation in this matter. In aggravation, respondent has one prior record of discipline, although it is given diminished weight because the misconduct occurred at the same time as the present misconduct. In addition, respondent committed multiple acts of misconduct related to the practice of law. Further, respondent’s failure to perform caused harm to her clients in that the Duckworths had to hire new counsel to complete the bankruptcy. In light of the foregoing, discipline consisting of a one-year stayed suspension, one-year probation with conditions, including a 90-days actual suspension is appropriate in order to protect the public, the courts and the legal profession, maintain high professional standards, and preserve public confidence in the legal profession.

Case law also supports this level of discipline. In *Bach v. State Bar* (1991) 52 Cal.3d 1201, the Supreme Court imposed a one-year stayed suspension, one-year probation with conditions, including 30-days actual suspension and until the attorney made restitution. In *Bach*, the Court found the attorney repeatedly and recklessly failed to perform legal services competently for one client over a period of two and a half years. The Court further found that the attorney had failed to communicate with his client much of that time; had improperly withdrawn from the case and failed to refund unearned fees. In addition, the attorney failed to respond to two written inquiries from a State Bar investigator. In mitigation, Bach had no prior record of discipline in twenty years of practice and in aggravation, the Court found Bach lacked insight into his wrongdoing.

The misconduct in the present matter is more serious. Notably, respondent committed misconduct in asking a client to withdraw his State Bar complaint. Further, although many of the allegations in *Bach* are similar, respondent engaged in more egregious misconduct, and there is more aggravation. Therefore, a longer period of actual suspension is warranted.

Based on the foregoing, discipline consisting of a one-year stayed suspension, one-year probation with conditions, including a 90-day actual suspension is appropriate to protect the public, the courts, and the legal profession, maintain high professional standards, and preserve public confidence in the legal profession.

COSTS OF DISCIPLINARY PROCEEDINGS.

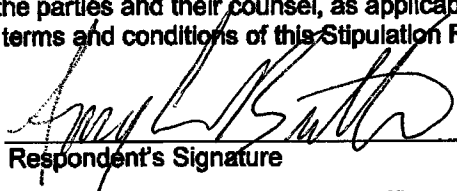
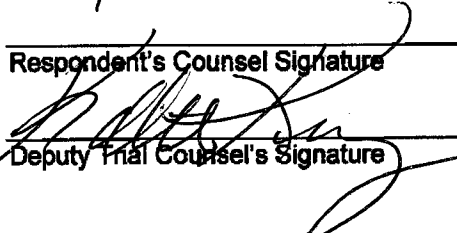
Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of September 19, 2018, the discipline costs in this matter are \$2,585. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

(Do not write above this line.)

In the Matter of: Amy Louise Butters	Case Number(s): 18-J-10460
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SIGNATURE OF THE PARTIES

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

<u>10/4/18</u> Date	 Respondent's Signature	<u>Amy Louise Butters</u> Print Name
<u>10/15/2018</u> Date	 Respondent's Counsel Signature	<u>Katherine Kinsey</u> Print Name

(Do not write above this line.)

In the Matter of: Amy Louise Butters	Case Number(s): 18-J-10460
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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 A.(8), the paragraph next to the box with the "X," line 4, "2019 and 2020" is deleted, and in its place is inserted "2020 and 2021".

On page 2 of the Stipulation, paragraph B.(1)(a), "13 pages" is deleted, and in its place is inserted "14 pages".

On page 11 of the Stipulation, at the top of the page and before "Procedural Background in Other Jurisdiction," "14-J-10460" is deleted, and in its place is inserted "18-J-10460".

On page 15 of the Stipulation, third full paragraph, line 7, "3-700(D)(1) [failure to return client file]" 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).)**

October 19, 2018
Date

Rebecca Meyer Rosenberg
REBECCA MEYER ROSENBERG, JUDGE PRO TEM
Judge Pro Tem of the State Bar Court

ORIGINAL

(Do not write above this line.)

State Bar Court of California Hearing Department Los Angeles REPROVAL		
<p>Counsel For The State Bar</p> <p>Adriana M. Burger Deputy Trial Counsel 845 S. Figueroa Street Los Angeles, CA 90017 (213) 765-1229</p> <p>Bar # 92534</p>	<p>Case Number(s): 14-J-05674</p>	<p>For Court use only</p> <p style="text-align: center;">FILED</p> <p style="text-align: center;">NOV 05 2015 </p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p>Amy Lousie Butters 101 North Fort Lane Suite 104 Layton, Utah 84041 (801) 513-3328</p> <p>Bar # 212072</p>	PUBLIC MATTER	
<p>In the Matter of: Amy Lousie Butters</p> <p>Bar # 212072</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>Submitted to: Assigned Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>PUBLIC REPROVAL</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</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 **December 29, 2000**.
- (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.

njl

(Do not write above this line.)

- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- Costs are added to membership fee for calendar year following effective date of discipline (public reproof).
 - Case ineligible for costs (private reproof).
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: (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.
- (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 [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(h) & 1.5]. Facts supporting aggravating circumstances are required.

- (1) Prior record of discipline
- (a) State Bar Court case # of prior case
 - (b) Date prior discipline effective
 - (c) Rules of Professional Conduct/ State Bar Act violations:
 - (d) Degree of prior discipline

(Do not write above this line.)

- (e) If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline".
- (2) **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by misrepresentation.
- (4) **Concealment:** Respondent's misconduct was surrounded by, or followed by concealment.
- (5) **Overreaching:** Respondent's misconduct was surrounded by, or followed by overreaching.
- (6) **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code or the Rules of Professional Conduct.
- (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. Please see attachment, page 8.
- (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. **Please see attachment, pages 8-9.**
- (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.

(Do not write above this line.)

- (4) **Remorse:** Respondent promptly took objective steps demonstrating spontaneous remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) **Good Faith:** Respondent acted with a good faith belief that was honestly held and objectively reasonable.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical or mental disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the 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.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances:

Pretrial Stipulation: Please see attachment, page 9.

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 one year.

(Do not write above this line.)

- (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.

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 reproof.
- (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: **Respondent resides in another jurisdiction. A comparable alternative to Ethics School is provided in Section (F) below.**
- (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 reproof.

No MPRE recommended. Reason:

- (11) The following conditions are attached hereto and incorporated:

(Effective July 1, 2015)

Reproof

(Do not write above this line.)

Substance Abuse Conditions

Law Office Management Conditions

Medical Conditions

Financial Conditions

F. Other Conditions Negotiated by the Parties:

Other Probation Conditions.

As a further condition of probation, because respondent resides out of state, respondent must either 1.) attend a session of State Bar Ethics School, pass the test given at the end of that session and provide proof of same satisfactory to the Office of Probation within one (1) year of the effective date of discipline herein; or 2.) complete six (6) hours of live, in person, or live-online-webinar Minimum Continuing Legal Education ("MCLE") approved courses in legal ethics offered through a certified MCLE provider in Utah or California and provide proof of same satisfactory to the Office of Probation within one (1) year of the effective date of discipline.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: AMY LOUISE BUTTERS

CASE NUMBER: 14-J-05674

FACTS AND CONCLUSIONS OF LAW.

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

Case No. 14-J-05674 (Discipline in Other Jurisdiction)

PROCEDURAL BACKGROUND IN OTHER JURISDICTION:

1. On July 2, 2001, respondent was admitted to the practice of law in the State of Utah.
2. On October 1, 2013, *In the Matter of the Discipline of Amy L. Butters*, Case No. 12-0737, Screening Panel A of the Utah Disciplinary Board, after a hearing, issued findings of fact and conclusions of law. Screening Panel A recommended the following: That the Utah Supreme Court impose discipline against respondent in the case entitled *In the Matter of Discipline of Amy L. Butters*, #8958, OPC file No. 12-0737 consisting of a public reprimand, for violating Utah Rule of Professional Conduct, rule 1.15(d) for failure to render accounts of client funds; Utah Rule of Professional Conduct, rule 8.1(b), for failure to cooperate in the Utah Bar investigation; Utah Rules of Professional Conduct, rule 1.4(a)(4), for failure to promptly to respond to reasonable status inquiries of clients; and, Utah Rules of Professional Conduct, rule 1.16, for failure to properly terminate representation of the client, failure to provide an accounting of fees to the client after termination and failure to return unearned fees.
3. On December 5, 2013, the Utah Supreme Court adopted all the facts and conclusions of law by Panel A and adopted Panel A's recommendation that the court issue a public reprimand against respondent. Thereafter, that order became final.
4. The disciplinary proceeding in the other jurisdiction provided fundamental constitutional protection.

FACTS FOUND IN OTHER JURISDICTION:

5. On May 25, 2012, respondent's client retained respondent to represent her in the client's marital dissolution matter. Respondent and the client executed a flat fee retainer agreement in which respondent agreed to represent the client and file, on the client's behalf, a petition for dissolution of the marriage. On the same date, the client paid respondent \$3,000.
6. On May 29, 2012, the client's spouse filed a petition for dissolution of the marriage. Respondent was required to file an answer, on her client's behalf by June 22, 2011.

7. Between June 11, 2012, and June 15, 2012, the client telephoned respondent's office and sent several text messages to respondent, in order to obtain a status report on the client's case. The client left phone messages for respondent to contact the client regarding the status of her case. Respondent received the text messages and phone messages, but did not reply to the client.

8. On June 15, 2012, in the early morning, the client sent an email to respondent, stating that she was terminating respondent because she was dissatisfied with respondent and wanted a refund of the \$3,000 in attorney fees. Respondent received the email.

9. On June 22, 2012, respondent filed an answer, on behalf of the client, in the client's marital dissolution matter.

10. On July 6, 2012, a new attorney substituted in as counsel for the client in the client's marital dissolution matter.

11. At no time did respondent provide the client with an accounting of the advanced fees of \$3,000 paid to respondent on May 25, 2012.

12. In August 2012, the Utah Office of Professional Conduct requested that respondent provide a written response to the client's allegations of misconduct against respondent in the client's marital dissolution matter. Respondent did not respond or provide a written response as requested.

13. The client subsequently filed a lawsuit against respondent in Small Claims Court for return of her fees. After the hearing, the Small Claims Court found that respondent owed the former client a refund of \$1,400. Respondent paid the \$1,400 to the client and received a satisfaction of judgment dated April 29, 2015.

CONCLUSIONS OF LAW:

14. As a matter of law, respondent's culpability of professional misconduct determined in the proceeding in Utah warrants the imposition of discipline under the laws and rules binding upon respondent in the State of California at the time respondent committed the misconduct in the other jurisdiction, pursuant to Business and Professions Code section 6049.1, subdivision (a).

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent committed multiple acts of misconduct including, failure to render accounts of client funds, failure to cooperate in a State Bar investigation, failure to promptly respond to reasonable status inquiries of clients, and failure to return unearned fees. These multiple acts of misconduct constitute an aggravating factor.

MITIGATING CIRCUMSTANCES.

No Prior Discipline (Std. 1.6(a)): Respondent has been in practice since December 29, 2000, approximately 14 years. Respondent was in practice for 11 years prior to the misconduct in this matter. Respondent has no prior record of discipline. Given respondent's past history of many years in practice with no prior discipline, it would appear that respondent's misconduct is aberrational and not likely to occur again in the future. In the case entitled *Hawes v. State Bar* (1990) 51 Cal.3d 587, Hawes was

entitled to receive significant mitigation after Hawes had been practicing for over 10 years without any prior discipline. Respondent's 11 years of discipline-free practice prior to the present misconduct entitles respondent to significant mitigation.

Prefiling Stipulation: By entering into this disciplinary stipulation, respondent is entitled to some mitigating credit, for saving the State Bar significant resources and time. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigating credit was given for entering into a stipulation as to facts and culpability]; *In the Matter of Spaitth* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521). However, this mitigation would be tempered by respondent's failure to cooperate in the investigation of the Utah disciplinary matter.

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 was found culpable of professional misconduct in the other jurisdiction, and to determine the appropriate sanction in this proceeding, it is necessary to consider the equivalent rule or statutory violation under California law. Specifically, respondent's misconduct in the other jurisdiction demonstrates a violation of California Rules of Professional conduct, rule 4-100(B)(3) [failure to render accounts of client funds]; California Business and Professions Code section 6068(i) [failure to cooperate in the State Bar investigation]; California Business and Professions Code section 6068(m) [failure to promptly respond to reasonable status inquiries of clients]; and, California Rules of Professional Conduct rule 3-700(D)(2) [failure to return unearned fees to the client upon termination].

Standard 1.7(a) provides that if a member commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed. In this reciprocal jurisdiction matter, respondent committed four violations. Standard 2.2(b), the most severe sanction, applies to respondent's violation of Rules of Professional Conduct Rule 4-100(B)(3), failing to provide the client with an accounting of the client's funds. Standard 2.2(b) states that suspension or reproof is the presumed sanction.

Respondent has committed multiple acts of wrongdoing in this matter by failing to respond promptly to reasonable status inquiries of the client, failing to provide an accounting of the client's advanced fees after the respondent had been terminated, failing to return unearned fees to the client upon termination, and failing to cooperate in the Utah disciplinary investigation of the matter.

Respondent is entitled to receive significant mitigation for her 11 years of discipline free practice prior to the present misconduct (*Hawes v. State Bar* (1990) 51 Cal.3d 587, 596). Respondent has saved the State Bar considerable resources by stipulating to the misconduct. Respondent also acknowledges her misconduct by entering into this stipulation. Considering respondent's prior blemish free years of practice, it would appear that this misconduct was aberrational, and unlikely to be repeated in the future. Given all these factors, the lower range of discipline provided in Standard 2.2(b), a public reproof, is the most appropriate sanction for respondent's misconduct.

Case law also supports the imposition of a low level range of discipline in this matter. In a case involving more serious misconduct than the misconduct engaged in by respondent, *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, the court recommended that the attorney receive a six-month stayed suspension, in one client matter, after he failed to perform competently, failed to obey two Supreme Court orders, and failed to report judicial sanctions. Riordan committed multiple acts of misconduct and harmed the administration of justice. Riordan was afforded mitigation for his 17-year discipline-free career, cooperation, and nominal good character. Here, respondent's misconduct also involves one client matter. But, in this matter, respondent's misconduct is limited in time and much less serious than the misconduct in *Riordan*. Accordingly, a lesser discipline than the six-month stayed suspension is appropriate in this matter.

Based upon the facts and circumstances surrounding respondent's misconduct the Standards and case law, a public reproof with conditions, will adequately protect the public and preserve the integrity of the legal profession.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of August 25, 2015, the prosecution costs in this matter are \$3,066.00. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

EXCLUSION FROM MCLE CREDIT

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

(Do not write above this line.)

In the Matter of: Amy Louise Butters	Case No. 14-J-05674
--	---------------------

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.

10/27/15 *Amy Louise Butters* Amy Louise Butters
Date Respondent's Signature Print Name

10/28/15 *Adriana Burger* Adriana Burger
Date Deputy Trial Counsel's Signature Print Name

(Do not write above this line.)

In the Matter of: Amy Lousie Butters	Case Number(s): 14-J-05674
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REPROVAL ORDER

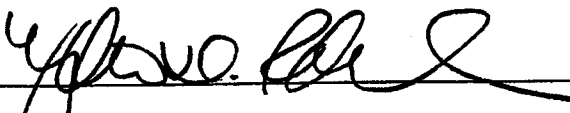
Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reprovial, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- 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 5.58(E) & (F), 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 reprovial may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.

November 3, 2015
Date



Judge of the State Bar Court

Yvette D. Roland

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on November 5, 2015, 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:

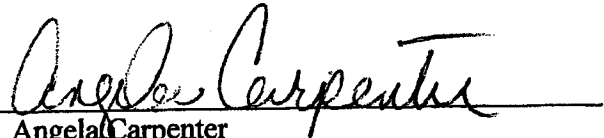
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

AMY L. BUTTERS
BUTTERS LAW, P.C.
PO BOX 150830
OGDEN, UT 84415

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

Adriana Margaret Burger, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on November 5, 2015.



Angela Carpenter
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 March 2, 2018

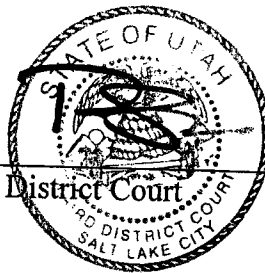
State Bar Court, State Bar of California,
Los Angeles

By _____
Clerk

United States of America
In the District Court of the Third Judicial District
In and for Salt Lake County, State of Utah

I, Randall N. Skanchy, Presiding Judge of the District Court of the Third Judicial District, Salt Lake County, Utah, certify that said Third District Court is a Court of Record, having a Clerk and a seal; that the signature is the handwriting of Christine Davies and that all official acts of the Clerk of the Court are entitled to full faith and credit. And I further certify that said attestation is executed according to law.

Signed and sealed this 15th day of December, 2017



Judge of the District Court

STATE OF UTAH

§
COUNTY OF SALT LAKE

I, Christine Davies, Clerk of the District Court of the Third Judicial District, Salt Lake County, Utah, certify that the Honorable Randall Skanchy whose name is subscribed to the preceding certificate, is one of the Judges of this Court, and that the signature of the Judge is genuine.

Signed and sealed this 15th day of December, 2017

Christine Davies

Clerk of the District Court

Barbara L. Townsend, #5568
Assistant Counsel
OFFICE OF PROFESSIONAL CONDUCT
Utah State Bar
645 South 200 East
Salt Lake City, UT 84111
(801) 531-9110
opcfilings@utahbar.org

IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR SALT LAKE COUNTY, STATE OF UTAH	
In the Matter of the Discipline of: Amy L. Butters, #8958 Respondent.	DISCIPLINE BY CONSENT AND SETTLEMENT AGREEMENT Civil No. 150907658 Judge James T. Blanch

The Utah State Bar's Office of Professional Conduct, by and through by Barbara L. Townsend, Assistant Counsel, and Respondent, Amy L. Butters, pursuant to Rule 14-520(b), Rules of Lawyer Discipline and Disability ("RLDD"), hereby resolve the above-captioned disciplinary matter by consent, based on the following admissions, statements, and facts. In this respect, Ms. Butters' admissions are considered conditional admissions and the OPC's agreement to the proposed discipline based on the conditional admissions is to be considered its response that the proposed discipline substantially satisfies its concerns as outlined in the Complaint in this matter.

I. ADMISSIONS

Amy L Butters, admits as follows:

1. The facts alleged in the Complaint filed in this action pertain to Ms. Butters' conduct are specifically admitted below.

2. Ms. Butters enters into this agreement voluntarily, without duress or coercion, fully understanding the implications of her admissions and the misconduct, and that in exchange for these admissions, the OPC, subject to the Court's approval, agrees that the discipline set forth in this agreement is a fair and just resolution of this matter.

3. Ms. Butters has violated Rule 1.1 (Competence), Rule 1.3 (Diligence), Rule 1.4(a) (Communication), Rules 1.15(a) and 1.15(c) (Safekeeping Property), Rule 1.16(e) (Declining or Terminating Representation), Rule 8.1(b) (Bar Admission and Disciplinary Matters), and 8.4(a) and 8.4(d) (Misconduct) of the Rules of Professional Conduct.

II. FINDINGS OF FACT

Ms. Butters specifically admits the following factual allegations:

1. The attorney charged with unprofessional conduct in this Complaint is Amy L Butters, who is an attorney in the State of Utah and a member of the Utah State Bar, and whose address according to the records of the Executive Director of the Utah State Bar is PO Box 150830, Ogden, UT 84015.

2. The Complaint was brought pursuant to a directive of a Screening Panel of the Ethics and Discipline Committee of the Utah Supreme Court, and is based upon Informal Complaints submitted against Ms. Butters by Sherri Duckworth and Bobby Duckworth ("Duckworth") and by Christopher Fiero ("Fiero").

3. On August 29, 2014, the OPC sent Ms. Butters a Notice of Informal Complaint ("NOIC") in the Duckworth matter.

4. On January 27, 2015, the OPC sent Ms. Butters a Notice of Informal Complaint ("NOIC") in the Fiero matter.

5. On April 2, 2015, a Screening Panel of the Ethics and Discipline Committee of the Utah Supreme Court ("the Screening Panel") heard the Duckworth and Fiero matters.

6. At the conclusion of the hearing on April 2, 2015, the Screening Panel directed the OPC to file a formal Complaint against Ms. Butters concerning the Duckworth and Fiero matters

7. Jurisdiction is proper in this Court pursuant to Rule 14-511(a), Rules of Lawyer Discipline and Disability (amended January 1, 2003) ("RLDD").

8. Venue is proper in this Court pursuant to Rule 14-511(b) of the RLDD, in that, at all relevant times, Respondent resided or practiced law in Utah County.

(Duckworth Matter)

9. Sherri and Bobby Duckworth retained Ms. Butters on September 15, 2011 to represent them in a bankruptcy proceeding.

10. Ms. Duckworth paid Ms. Butters \$1,699.00 on September 15, 2011. The check included \$1,400.00 for attorney fees and \$299.00 for filing fees.

11. Ms. Butters deposited client funds in her operating account before earning the funds.

12. The Petition was filed on February 2, 2012 and a deficiency notice went out

on February 3, 2012.

13. Two cases were dismissed for failure to pay the filing fees.
14. On April 9, 2012, Ms. Butters filed a Chapter 13 bankruptcy petition on behalf of the Duckworth's (case no. 12-24431).
15. The Trustee filed a motion to dismiss on May 30, 2013. The objection to the dismissal was due by June 24, 2013.
16. On June 28, 2013, Ms. Butters filed an objection to dismissal and motion to abate.
17. After Ms. Butters filed a Chapter 13 bankruptcy on behalf of the Duckworth's, a hearing was held regarding the motion to dismiss and objection. The court sustained the objection to the motion to dismiss and required that Ms. Butters write the order and submit it to the court by August 14, 2013.
18. On August 16, 2013, the court issued an order to show cause because Ms. Butters failed to submit a proposed order on the Duckworth's objection.
19. The court denied the objection to dismissal, ordering the case dismissed for failure to prosecute. An Order to Show Cause was issued for the petitioner to show why it should not be dismissed on or before August 30, 2013. No document was filed.
20. The case was dismissed on October 9, 2013 for failure to prosecute.
21. On November 14, 2013, Ms. Duckworth sent Ms. Butters a letter regarding her opinions about the handling of her case.
22. On November 20, 2013, Ms. Duckworth retained new counsel to finish the case.

(Fierro Matter)

23. On May 25, 2013, Mr. Fierro paid \$1,000 to Ms. Butters.
24. On June 14, 2013, Ms. Butters filed a Chapter 7 Voluntary Petition on behalf of Mr. Fierro.
25. On June 30, 2013, the bankruptcy court sent a 341 Meeting Notice with a meeting date of July 25, 2013.
26. Neither Ms. Butters nor Mr. Fierro attended the 341 meeting on July 25, 2013.
27. The Trustee filed a Recommendation for Dismissal on September 3, 2013.
28. No timely objection was filed for this recommendation and the case was closed on October 25, 2013.
29. On September 10, 2013, Ms. Butters filed a Chapter 7 Voluntary Petition on behalf of Mr. Fierro.
30. The court sent notice on September 26, 2013 that a 341 meeting was scheduled on October 16, 2013.
31. Mr. Fierro contacted Ms. Butters regarding his move to Texas and the impact such a move would have on his bankruptcy proceedings.
32. Ms. Butters indicated that she would file a motion to allow Mr. Fierro to appear telephonically.
33. The docket does not indicate that such a motion was filed.
34. Mr. Fierro received three email notifications regarding the 341 meeting, each indicating that he was to appear by telephone in front of a Notary.

35. On October 15, 2013, during communication regarding the hearing the next day, Ms. Butters indicated that she was to appear in person. Because Mr. Fierro was in Colorado, she indicated that she would discuss the case with the Trustee and file a motion to reschedule the hearing.

36. On October 18, 2013, the Trustee filed a Recommendation of Dismissal.

37. An Objection to Dismissal was due by November 12, 2013.

38. Ms. Butters did not file any objection to the dismissal. On November 20, 2013, the court issued an Order dismissing the case.

39. On July 22, 2014, the OPC sent a request for an informal reply to Mr. Fierro's allegations. The OPC did not receive a reply.

40. On August 28, 2014, the OPC sent a second request for an informal reply to Mr. Fierro's allegations. The OPC did not receive a reply.

41. On October 17, 2014, the OPC sent another request for an informal reply after noting that Ms. Butter's preferred address with the Utah State Bar had been updated. The OPC did not receive a reply.

42. Ms. Butters contacted Mr. Fierro after the Bar Complaint had been filed. She told Mr. Fierro that she would refund part of the money owed to Mr. Fierro if he would agree to withdraw his complaint against her.

III. CONCLUSIONS OF LAW

Ms. Butters admits that she violated the following Rules of Professional Conduct:

COUNT ONE
Violation of Rule 1.1 Competence
(Fierro Matter)

1. Rule 1.1 (Competence) of the Rules of Professional Conduct states:

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

2. Ms. Butters did not thoroughly review documents of her client.
3. Ms. Butters failed to prepare for hearings.
4. Ms. Butters failed to file appropriate documents.
5. By the above conduct, Ms. Butters violated Rule 1.1 (Competence).

COUNT TWO
Violation of Rule 1.3 Diligence
(Duckworth Matter)

6. Rule 1.3 (Diligence) of the Rules of Professional Conduct states:

A lawyer shall act with reasonable diligence and promptness in representing a client.

7. Ms. Butters failed to pay the filing fee for filing the Bankruptcy Petition on more than one occasion.
8. Ms. Butters failed to follow court procedures resulting in dismissal on several occasions.
9. By the above conduct, Ms. Butters violated Rule 1.3 (Diligence).

COUNT THREE
Violation of Rule 1.3 Diligence
(Fierro Matter)

10. Rule 1.3 (Diligence) of the Rules of Professional Conduct states:

A lawyer shall act with reasonable diligence and promptness in representing a client.
11. Ms. Butters failed to actively pursue her client's Bankruptcy case.
12. Ms. Butters failed to give her make her client aware of important dates.
13. By the above conduct, Ms. Butters violated Rule 1.3 (Diligence).

COUNT FOUR
Violation of Rule 1.4(a) Communication
(Duckworth Matter)

14. Rule 1.4(a) Communication of the Rules of Professional Conduct states:

(a) A lawyer shall:
(a)(1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules;
(a)(2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;
(a)(3) keep the client reasonably informed about the status of the matter;
(a)(4) promptly comply with reasonable requests for information; and
(a)(5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.
15. Ms. Butters failed to communicate essential information to client and stopped communicating during the pendency of the case.
16. By the above conduct, Ms. Butters violated Rule 1.4(a) (Communication).

COUNT FIVE
Violation of Rule 1.4(a) Communication
(Fierro Matter)

17. Rule 1.4(a) Communication of the Rules of Professional Conduct states:

(a) A lawyer shall:

(a)(1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules;

(a)(2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;

(a)(3) keep the client reasonably informed about the status of the matter;

(a)(4) promptly comply with reasonable requests for information; and

(a)(5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

18. Ms. Butters failed to communicate with her client about his obligations in the case.

19. Ms. Butters gave her client the wrong notices.

20. Ms. Butters failed to give information to her client to enable him to make important decisions in the case.

21. By the above conduct, Ms. Butters violated Rule 1.4(a) (Communication).

COUNT SIX
Violation of Rule 1.15(a) Safekeeping Property
(Duckworth Matter)

22. Rule 1.15(a) Safekeeping Property of the Rules of Professional Conduct states:

A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. Funds shall be kept

in a separate account maintained in the state where the lawyer's office is situated or elsewhere with the consent of the client or third person. The account may only be maintained in a financial institution that agrees to report to the Office of Professional Conduct in the event any instrument in properly payable form is presented against an attorney trust account containing insufficient funds, irrespective of whether or not the instrument is honored. Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation.

23. Ms. Butters deposited client funds in her operating account and failed to keep her funds separate from client funds.

24. By the above conduct, Ms. Butters violated Rule 1.15(a) (Safekeeping Property).

COUNT SEVEN
Violation of Rule 1.15(c) Safekeeping Property
(Duckworth Matter)

25. Rule 1.15(c) (Safekeeping Property) of the Rules of Professional Conduct states:

A lawyer may deposit the lawyer's own funds in a client trust account for the sole purpose of paying bank service charges on that account, but only in an amount necessary for that purpose.

26. Ms. Butters deposited client funds into her operating account when the funds had not been earned by her and costs had not been incurred.

27. By the above conduct, Ms. Butters violated Rule 1.15(c).

COUNT EIGHT
Violation of Rule 1.16(d) Declining or Terminating Representation
(Fierro Matter)

28. Rule 1.16(d) (Declining or Terminating Representation) of the Rules of Professional Conduct states:

Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer must provide, upon request, the client's file to the client. The lawyer may reproduce and retain copies of the client file at the lawyer's expense.

29. Ms. Butters did not provide a refund to her client on request.

30. Ms. Butters failed to return the client's file on termination of the representation.

31. By the above conduct, Ms. Butters violated Rule 1.16(d) (Declining or Terminating Representation).

COUNT NINE
Violation of Rule 8.1(b) Bar Admission and Disciplinary Matters
(Fierro Matter)

32. Rule 8.1(b) (Bar Admission and Disciplinary Matters) of the Rules of Professional Conduct states:

An applicant for admission to the Bar, or a lawyer in connection with a Bar admission application or in connection with a disciplinary matter, shall not:

(b) Fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6.

33. Ms. Butters violated Rule 8.1(b) by failing to respond to OPC's requests for information and failing to cooperate in the OPC's investigation.

COUNT TEN
Violation of Rule 8.4(d) Misconduct
(Fierro Matter)

34. Rule 8.4(d) (Misconduct) of the Rules of Professional Conduct states:

It is professional misconduct for a lawyer to:
(d) engage in conduct that is prejudicial to the administration of justice;

35. Ms. Butters violated Rule 8.4(d) by offering to pay the client his refund owed in exchange for him withdrawing the complaint filed with the Bar against her.

36. Rule 8.4(a) (Misconduct) of the Rules of Professional Conduct states:

It is professional misconduct for a lawyer to: (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another.

37. Ms. Butters violated Rule 8.4(a) by violating the above stated Rules of Professional Conduct.

IV. AGGRAVATING AND MITIGATING CIRCUMSTANCES

The OPC and Ms. Butters stipulate that, for the purposes of this discipline by consent and settlement agreement, there are no aggravating or mitigating circumstances as outlined in Rule 14-607 of Standards for Imposing Lawyer Sanctions ("Standards").

V. RECOMMENDATION OF DISCIPLINE

Pursuant to Rule 14-605(b) of the Standards for Imposing Lawyer Sanctions:
Pursuant to Rule 14-603(f) of the Standards for Imposing Lawyer Sanctions:

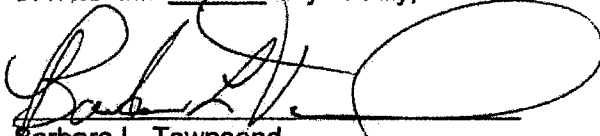
Probation is a sanction that allows a lawyer to practice law under specified conditions. Probation can be public or nonpublic, and be imposed along or in conjunction with other sanctions, and can be imposed as a condition of readmission or reinstatement.

Subject to the Court's approval, Ms. Butters and the OPC agree that Ms. Butters shall be placed on probation for one year for her violation of the Rules of Professional Conduct, and agree to the following conditions:

- a. Ms. Butters represents and warrants that she does not presently know of, or have reason to anticipate, any complaint from any former or present clients other than one complaint pending in the non-notarized stage and the formal Complaint at issue involving two former clients.
- b. If the OPC receives a new complaint during the period of this probation involving legal services rendered by her during the period of this probation, the OPC has the discretion to petition the Court for consideration of the complaint as a possible violation of the probation. Should OPC file such a petition, the parties agree that the complaint will be heard in connection with this proceeding and will not be the subject of screening panel proceedings under Rule 14-510 of the Rules of Lawyer Discipline and Disability ("RLDD").
- c. Ms. Butters will attend and complete OPC Ethics School, which occurs twice a year in March and in September.
- d. Ms. Butters will take and pass the Multistate Professional Responsibility Exam pursuant to Rule 14-525(e)(6) of the RLDD.

e. Ms. Butters stipulates that, if the Court finds she has materially breached the parties' agreement, the Court shall, pursuant to Rule 14-511, upon proper notice to the parties in due course, authorize an Order to Show Cause directly to the District Court for the Court to determine any material breach and if so determined, have a sanctions hearing to determine the appropriate sanction. Ms. Butters will either be determined to have completed her probation and the discipline case is finished with probation as the sanction, or, if appropriate, Ms. Butters will finish the probation in accordance with its terms. Further, if the Court finds that Ms. Butters has materially breached the parties' agreement, the Court shall enter such conclusion(s) of law in the pending District Court action as necessary and appropriate to support the imposition of any and all sanctions it deems appropriate.

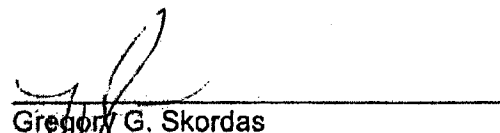
DATED this 20th day of July, 2017


Barbara L. Townsend
Associate Counsel
Office of Professional Conduct

DATED this 7th ^{August} day of July, 2017


Amy L. Butters
Respondent

DATED this 7 ^{August} day of July, 2017.


Gregory G. Skordas
Skordas Caston & Hyde, LLC Counsel
for Respondent

STATE OF UTAH

§

COUNTY OF SALT LAKE

I, Christine Davies, Clerk of the District Court of the Third Judicial District, Salt Lake County, Utah, certify that the foregoing is a full, true and correct copy of the original DISCIPLINE BY CONSENT AND SETTLEMENT AGREEMENT

Case # 150907658

Filed: August 7, 2017

In the Matter of the Discipline of:

Amy L. Butters, #8958

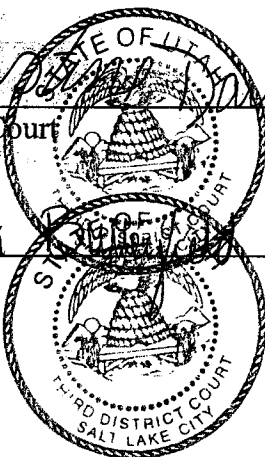
Respondent

in my office:

Signed and sealed this 15th day of December, 2017


Clerk of the Court

By 
Deputy Clerk

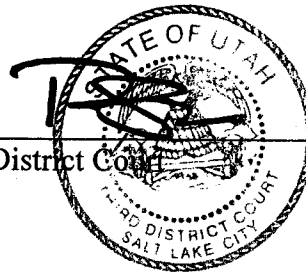


United States of America
In the District Court of the Third Judicial District
In and for Salt Lake County, State of Utah

I, Randall N. Skanchy, Presiding Judge of the District Court of the Third Judicial District, Salt Lake County, Utah, certify that said Third District Court is a Court of Record, having a Clerk and a seal; that the signature is the handwriting of Christine Davies and that all official acts of the Clerk of the Court are entitled to full faith and credit. And I further certify that said attestation is executed according to law.

Signed and sealed this 15th day of December, 2017

Judge of the District Court



STATE OF UTAH

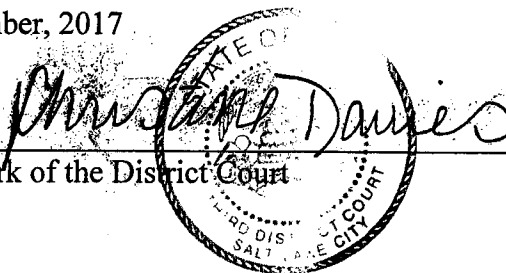
§

COUNTY OF SALT LAKE

I, Christine Davies, Clerk of the District Court of the Third Judicial District, Salt Lake County, Utah, certify that the Honorable Randall Skanchy whose name is subscribed to the preceding certificate, is one of the Judges of this Court, and that the signature of the Judge is genuine.

Signed and sealed this 15th day of December, 2017

Clerk of the District Court



Barbara L. Townsend, #5568
 Assistant Counsel
 OFFICE OF PROFESSIONAL CONDUCT
 Utah State Bar
 645 South 200 East
 Salt Lake City, UT 84111
 (801) 531-9110
opcfileing@utahbar.org

**IN THE THIRD JUDICIAL DISTRICT COURT
 IN AND FOR SALT LAKE COUNTY, STATE OF UTAH**

**In the Matter of the
 Discipline of:**

Amy L Butters, #8958

Respondent.

**ORDER OF DISCIPLINE:
 PROBATION**

**Civil No. 150907658
 Judge James T. Blanch**

The above-captioned matter having come before the Court upon the pleadings, and the Court having reviewed all pleadings and papers on file herein, including the Complaint and the Discipline by Consent and Settlement Agreement entered into between the Respondent, Amy L. Butters, and the Utah State Bar's Office of Professional Conduct, and the Court having been fully advised in the premises, does now, ORDER, ADJUDGE and DECREE, that for the disciplinary violations set forth in the Discipline By Consent and Settlement Agreement:

1. Amy L. Butters is hereby placed on probation for one year from the date of this Order with the following conditions:
 - a. Ms. Butters shall represent and warrant that she does not presently know of, or have reason to anticipate, any complaint from any former or present clients

other than client around whom this action is based.

b. If the OPC receives a complaint during the period of this probation involving legal services rendered by her during the period of this probation, the OPC has the discretion to petition the Court for consideration of the complaint as a possible violation of the probation. Should OPC file such a petition, the parties agree that the complaint will be heard in connection with this proceeding and will not be the subject of screening panel proceedings under Rule 14-510 of the Rules of Lawyer Discipline and Disability ("RLDD").

c. Ms. Butters shall attend and complete OPC ethics school, which occurs twice a year in March and in September.

d. Ms. Butters shall take and pass the Multistate Professional Responsibility Exam pursuant to Rule 14-525(e)(6) of the RLDD.

e. If the Court finds Ms. Butters has materially breached the parties' agreement, the Court shall, pursuant to Rule 14-511, upon proper notice to the parties in due course, authorize an Order to Show Cause directly to the District Court for the Court to determine any material breach and if so determined, have a sanctions hearing to determine the appropriate sanction. Ms. Butters will either be determined to have completed her probation and the discipline case is finished with probation as the sanction, or, if appropriate, Ms. Butters will finish the probation in accordance with its terms. Further, if the Court finds that Ms. Butters has materially breached the parties' agreement, the Court shall enter such conclusion(s) of law in the pending District Court action as necessary and appropriate to support the imposition of any and all sanctions it

deems appropriate.

Approved as to form:

/s/ Gregory G. Skordas
Gregory G. Skordas
Counsel for Respondent

END OF ORDER

Upon approval of the Court, this becomes an Order when the Court's signature and seal appear on the top right corner of the first page.

STATE OF UTAH

COUNTY OF SALT LAKE §

I, Christine Davies, Clerk of the District Court of the Third Judicial District, Salt Lake County, Utah, certify that the foregoing is a full, true and correct copy of the original ORDER OF DISCIPLINE: PROBATION

Case # 150907658
Filed: August 8, 2017

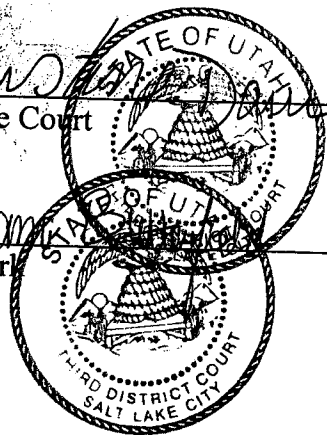
In the Matter of the Discipline of:
Amy L. Butters, #8958
Respondent

in my office:

Signed and sealed this 15th day of December, 2017


Clerk of the Court

By 
Deputy Clerk



Rule 1.1. Competence.

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

Comment

Legal Knowledge and Skill

[1] In determining whether a lawyer employs the requisite knowledge and skill in a particular matter, relevant factors include the relative complexity and specialized nature of the matter, the lawyer's general experience, the lawyer's training and experience in the field in question, the preparation and study the lawyer is able to give the matter and whether it is feasible to refer the matter to, or associate or consult with, a lawyer of established competence in the field in question. In many instances, the required proficiency is that of a general practitioner. Expertise in a particular field of law may be required in some circumstances.

[2] A lawyer need not necessarily have special training or prior experience to handle legal problems of a type with which the lawyer is unfamiliar. A newly admitted lawyer can be as competent as a practitioner with long experience. Some important legal skills, such as the analysis of precedent, the evaluation of evidence and legal drafting, are required in all legal problems. Perhaps the most fundamental legal skill consists of determining what kind of legal problems a situation may involve, a skill that necessarily transcends any particular specialized knowledge. A lawyer can provide adequate representation in a wholly novel field through necessary study. Competent representation can also be provided through the association of a lawyer of established competence in the field in question.

[3] In an emergency a lawyer may give advice or assistance in a matter in which the lawyer does not have the skill ordinarily required where referral to or consultation or association with another lawyer would be impractical. Even in an emergency, however, assistance should be limited to that reasonably necessary in the circumstances, for ill-considered action under emergency conditions can jeopardize the client's interest.

[4] A lawyer may accept representation where the requisite level of competence can be achieved by reasonable preparation. This applies as well to a lawyer who is appointed as counsel for an unrepresented person. See also Rule 6.2.

Thoroughness and Preparation

[5] Competent handling of a particular matter includes inquiry into and analysis of the factual and legal elements of the problem and use of methods and procedures meeting the standards of competent practitioners. It also includes adequate preparation. The required attention and preparation are determined in part by what is at stake; major litigation and complex transactions ordinarily require more extensive treatment than matters of lesser complexity and consequence. An agreement between the lawyer and the client regarding the scope of the representation may limit the matters for which the lawyer is responsible. See Rule 1.2(c).

Retaining or Contracting With Other Lawyers

[6] Before a lawyer retains or contracts with other lawyers outside the lawyer's own firm to provide or assist in the provision of legal services to a client, the lawyer should ordinarily obtain informed consent from the client and must reasonably believe that the other lawyers' services will contribute to the competent and ethical representation of the client. The reasonableness of the decision to retain or contract with other lawyers outside the lawyer's own firm will depend upon the circumstances, including the education, experience and reputation of the nonfirm lawyers; the nature of the services assigned to the nonfirm lawyers; and the legal protections, professional conduct rules, and ethical environments of the jurisdictions in which the services will be performed, particularly relating to confidential information.

[7] When lawyers from more than one law firm are providing legal services to the client on a particular matter, the lawyers ordinarily should consult with each other and the client about the scope of their respective representations and the allocation of responsibility among them. See Rule 1.2. When making allocations of responsibility in a matter pending before a tribunal, lawyers and parties may have additional obligations that are a matter of law beyond the scope of these Rules.

Maintaining Competence

[8] To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology, engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subject.

Rule 1.3. Diligence.

A lawyer shall act with reasonable diligence and promptness in representing a client.

Comment

[1] A lawyer should pursue a matter on behalf of a client despite opposition, obstruction or personal inconvenience to the lawyer and take whatever lawful and ethical measures are required to vindicate a client's cause or endeavor. A lawyer must act with commitment and dedication to the interests of the client and with zeal in advocacy upon the client's behalf. A lawyer is not bound, however, to press for every advantage that might be realized for a client. For example, a lawyer may have authority to exercise professional discretion in determining the means by which a matter should be pursued. See Rule 1.2. The lawyer's duty to act with reasonable diligence does not require the use of offensive tactics or preclude the treating of all persons involved in the legal process with courtesy and respect.

[2] A lawyer's work load must be controlled so that each matter can be handled competently.

[3] Perhaps no professional shortcoming is more widely resented than procrastination. A client's interests often can be adversely affected by the passage of time or the change of conditions; in extreme instances, as when a lawyer overlooks a statute of limitations, the client's legal position may be destroyed. Even when the client's interests are not affected in substance, however, unreasonable delay can cause a client needless anxiety and undermine confidence in the lawyer's trustworthiness. A lawyer's duty to act with reasonable promptness, however, does not preclude the lawyer from agreeing to a reasonable request for a postponement that will not prejudice the lawyer's client.

[4] Unless the relationship is terminated as provided in Rule 1.16, a lawyer should carry through to conclusion all matters undertaken for a client. If a lawyer's employment is limited to a specific matter, the relationship terminates when the matter has been resolved. If a lawyer has served a client over a substantial period in a variety of matters, the client sometimes may assume that the lawyer will continue to serve on a continuing basis unless the lawyer gives notice of withdrawal. Doubt about whether a client-lawyer relationship still exists should be clarified by the lawyer, preferably in writing, so that the client will not mistakenly suppose the lawyer is looking after the client's affairs when the lawyer has ceased to do so. For example, if a lawyer has handled a judicial or administrative proceeding that produced a result adverse to the client and the lawyer and the client have not agreed that the lawyer will handle the matter on appeal, the lawyer must consult with the client about the possibility of appeal before relinquishing responsibility for the matter. See Rule 1.4(a)(2). Whether the lawyer is obligated to prosecute the appeal for the client depends on the scope of the representation the lawyer has agreed to provide to the client. See Rule 1.2.

[5] To prevent neglect of client matters in the event of a sole practitioner's death or disability, the duty of diligence may require that each sole practitioner prepare a plan, in conformity with applicable rules, that designates another competent lawyer to review client files, notify each client of the lawyer's death or disability, and determine whether there is a need for immediate protective action. Cf. Rule 27 of the Utah Rules for Lawyer Discipline and Disability (providing for court appointment of a lawyer to inventory files and take other protective action in absence of a plan providing for another lawyer to protect the interests of the clients of a deceased or disabled lawyer).

Rule 1.4. Communication.

(a) A lawyer shall:

- (a)(1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules;
- (a)(2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;
- (a)(3) keep the client reasonably informed about the status of the matter;
- (a)(4) promptly comply with reasonable requests for information; and
- (a)(5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

Comment

[1] Reasonable communication between the lawyer and the client is necessary for the client effectively to participate in the representation.

Communicating with Client

[2] If these Rules require that a particular decision about the representation be made by the client, paragraph (a)(1) requires that the lawyer promptly consult with and secure the client's consent prior to taking action unless prior discussions with the client have resolved what action the client wants the lawyer to take. For example, a lawyer who receives from opposing counsel an offer of settlement in a civil controversy or a proffered plea bargain in a criminal case must promptly inform the client of its substance unless the client has previously indicated that the proposal will be acceptable or unacceptable or has authorized the lawyer to accept or to reject the offer. See Rule 1.2(a).

[3] Paragraph (a)(2) requires the lawyer to reasonably consult with the client about the means to be used to accomplish the client's objectives. In some situations—depending on both the importance of the action under consideration and the feasibility of consulting with the client—this duty will require consultation prior to taking action. In other circumstances, such as during a trial when an immediate decision must be made, the exigency of the situation may require the lawyer to act without prior consultation. In such cases the lawyer must nonetheless act reasonably to inform the client of actions the lawyer has taken on the client's behalf. Additionally, paragraph (a)(3) requires that the lawyer keep the client reasonably informed about the status of the matter, such as significant developments affecting the timing or the substance of the representation.

[4] A lawyer's regular communication with clients will minimize the occasions on which a client will need to request information concerning the representation. When a client makes a reasonable request for information, however, paragraph (a)(4) requires prompt compliance with the request, or if a prompt response is not feasible, that the lawyer, or a member of the lawyer's staff, acknowledge receipt of the request and advise the client when a response may be expected. A lawyer should promptly respond to or acknowledge client communications.

Explaining Matters

[5] The client should have sufficient information to participate intelligently in decisions concerning the objectives of the representation and the means by which they are to be pursued, to the extent the client is willing and able to do so. Adequacy of communication depends in part on the kind of advice or assistance that is involved. For example, when there is time to explain a proposal made in a negotiation, the lawyer should review all important provisions with the client before proceeding to an agreement. In litigation a lawyer should explain the general strategy and prospects of success and ordinarily should consult the client on tactics that are likely to result in significant expense or to injure or coerce others. On the other hand, a lawyer ordinarily will not be expected to describe trial or negotiation strategy in detail. The guiding principle is that the lawyer should fulfill reasonable client expectations for information consistent with the duty to act in the client's best interests and the client's overall requirements as to the character of representation. In certain circumstances, such as when a lawyer asks a client to consent to a representation affected by a conflict of interest, the client must give informed consent, as defined in Rule 1.0(f).

[6] Ordinarily, the information to be provided is that appropriate for a client who is a comprehending and responsible adult. However, fully informing the client according to this standard may be impracticable, for example, where the client is a child or suffers from diminished capacity. See Rule 1.14. When the client is an organization or group, it is often impossible or inappropriate to inform every one of its members about its legal affairs; ordinarily, the lawyer should address communications to the appropriate officials of the organization. See Rule 1.13. Where many routine matters are involved, a system of limited or occasional reporting may be arranged with the client.

Withholding Information

[7] In some circumstances, a lawyer may be justified in delaying transmission of information when the client would be likely to react imprudently to an immediate communication. Thus, a lawyer might withhold a psychiatric diagnosis of a client when the examining psychiatrist indicates that disclosure would harm the client. A lawyer may not withhold information to serve the lawyer's own interest or convenience or the interests or convenience of another person. Rules or court orders governing litigation may provide that information supplied to a lawyer may not be disclosed to the client. Rule 3.4(c) directs compliance with such rules or orders.

Effective November 1, 2017

Rule 1.15. Safekeeping Property.

(a) A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. Funds shall be kept in a separate account maintained in the state where the lawyer's office is situated or elsewhere with the consent of the client or third person. The account may only be maintained in a financial institution that agrees to report to the Office of Professional Conduct in the event any instrument in properly payable form is presented against an attorney trust account containing insufficient funds, irrespective of whether or not the instrument is honored. Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation.

(b) A lawyer may deposit the lawyer's own funds in a client trust account for the sole purpose of paying bank service charges on that account, but only in an amount necessary for that purpose.

(c) A lawyer shall deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred.

(d) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this Rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.

(e) When in the course of representation a lawyer is in possession of property in which two or more persons (one of whom may be the lawyer) claim interests, the property shall be kept separate by the lawyer until the dispute is resolved. The lawyer shall promptly distribute all portions of the property as to which the interests are not in dispute.

Comment

[1] A lawyer should hold property of others with the care required of a professional fiduciary. Securities should be kept in a safe deposit box, except when some other form of safekeeping is warranted by special circumstances. All property which is the property of clients or third persons, including prospective clients, must be kept separate from the lawyer's business and personal property and, if monies, in one or more trust accounts. Separate trust accounts may be warranted when administering estate monies or acting in similar fiduciary capacities. In addition to normal monthly maintenance fees on each account, the lawyers can anticipate that financial institutions may charge additional fees for reporting overdrafts in accordance with this Rule. A lawyer should maintain on a current basis books and records in accordance with generally accepted accounting practice and comply with any recordkeeping rules established by law or court order. See, e.g., ABA Model Financial Recordkeeping Rule.

[2] While normally it is impermissible to commingle the lawyer's own funds with client funds, paragraph (b) provides that it is permissible when necessary to pay bank service charges on that account. Accurate records must be kept regarding which part of the funds are the lawyer's.

[3] Lawyers often receive funds from third parties from which the lawyer's fee will be paid. The lawyer is not required to remit to the client funds that the lawyer reasonably believes represent fees owed. However, a lawyer may not hold funds to coerce a client into accepting the lawyer's contention. The disputed portion of the funds must be kept in a trust account, and the lawyer should suggest means for prompt resolution of the dispute, such as arbitration. The undisputed portion of the funds shall be promptly distributed.

[4] Paragraph (e) also recognizes that third parties may have lawful claims against specific funds or other property in a lawyer's custody, such as a client's creditor who has a lien on funds recovered in a personal injury action. A lawyer may have a duty under applicable law to protect such third-party claims against wrongful interference by the client. In such cases, when the third-party claim is not frivolous under applicable law, the lawyer must refuse to surrender the property to the client until the claims are resolved. A lawyer should not unilaterally assume to arbitrate a dispute between the client and the third party, but, when there are substantial grounds for dispute as to the person entitled to the funds, the lawyer may file an action to have a court resolve the dispute.

[5] The obligations of a lawyer under this Rule are independent of those arising from activity other than rendering legal services. For example, a lawyer who serves as an escrow agent is governed by the applicable law relating to fiduciaries even though the lawyer does not render legal services in the transaction and is not governed by this Rule.

[6] A lawyers' fund for client protection provides a means through the collective efforts of the Bar to reimburse persons who have lost money or property as a result of dishonest conduct of a lawyer. Where such a fund has been established, a lawyer must participate where it is mandatory, and, even when it is voluntary, the lawyer should participate.

[6a] This Rule is identical to ABA Model Rule 1.15 except it incorporates two sentences that were added to the prior version of this Rule in 1997. These two sentences are the third sentence of paragraph (a) of the Rule and the corresponding fifth sentence of Comment [1].

Rule 1.16. Declining or terminating representation.

(a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:

(a)(1) the representation will result in violation of the rules of professional conduct or other law;

(a)(2) the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client; or

(a)(3) the lawyer is discharged.

(b) Except as stated in paragraph (c), a lawyer may withdraw from representing a client if:

(b)(1) withdrawal can be accomplished without material adverse effect on the interests of the client ;

(b)(2) the client persists in a course of action involving the lawyer's services that the lawyer reasonably believes is criminal or fraudulent;

(b)(3) the client has used the lawyer's services to perpetrate a crime or fraud;

(b)(4) the client insists upon taking action that the lawyer considers repugnant or with which the lawyer has a fundamental disagreement;

(b)(5) the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled;

(b)(6) the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; or

(b)(7) other good cause for withdrawal exists.

(c) A lawyer must comply with applicable law requiring notice to or permission of a tribunal when terminating a representation. When ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation.

(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer must provide, upon request, the client's file to the client. The lawyer may reproduce and retain copies of the client file at the lawyer's expense.

Comment

[1] A lawyer should not accept representation in a matter unless it can be performed competently, promptly, without improper conflict of interest and to completion. Ordinarily, a representation in a matter is completed when the agreed upon assistance has been concluded. See Rules 1.2(c) and 6.5. See also Rule 1.3, Comment 4.

Mandatory Withdrawal

[2] A lawyer ordinarily must decline or withdraw from representation if the client demands that the lawyer engage in conduct that is illegal or violates the rules of professional conduct or other law. The lawyer is not obliged to decline or withdraw simply because the client suggests such a course of conduct; a client may make such a suggestion in the hope that a lawyer will not be constrained by a professional obligation.

[3] When a lawyer has been appointed to represent a client, withdrawal ordinarily requires approval of the appointing authority. See also Rule 6.2. Similarly, court approval or notice to the court is often required by applicable law before a lawyer withdraws from pending litigation. Difficulty may be encountered if withdrawal is based on the client's demand that the lawyer engage in unprofessional conduct. The court

may request an explanation for the withdrawal, while the lawyer may be bound to keep confidential the facts that would constitute such an explanation. The lawyer's statement that professional considerations require termination of the representation ordinarily should be accepted as sufficient. Lawyers should be mindful of their obligations to both clients and the court under Rules 1.6 and 3.3.

Discharge

[4] A client has a right to discharge a lawyer at any time, with or without cause, subject to liability for payment for the lawyer's services. Where future dispute about the withdrawal may be anticipated, it may be advisable to prepare a written statement reciting the circumstances.

[5] Whether a client can discharge appointed counsel may depend on applicable law. A client seeking to do so should be given a full explanation of the consequences. These consequences may include a decision by the appointing authority that appointment of successor counsel is unjustified, thus requiring self representation by the client.

[6] If the client has severely diminished capacity, the client may lack the legal capacity to discharge the lawyer, and in any event the discharge may be seriously adverse to the client's interests. The lawyer should make special effort to help the client consider the consequences and may take reasonably necessary protective action as provided in Rule 1.14.

Optional Withdrawal

[7] A lawyer may withdraw from representation in some circumstances. The lawyer has the option to withdraw if it can be accomplished without material adverse effect on the client's interests. Withdrawal is also justified if the client persists in a course of action that the lawyer reasonably believes is criminal or fraudulent, for a lawyer is not required to be associated with such conduct even if the lawyer does not further it. Withdrawal is also permitted if the lawyer's services were misused in the past even if that would materially prejudice the client. The lawyer may also withdraw where the client insists on taking action that the lawyer considers repugnant or with which the lawyer has a fundamental disagreement.

[8] A lawyer may withdraw if the client refuses to abide by the terms of an agreement relating to the representation, such as an agreement concerning fees or court costs or an agreement limiting the objectives of the representation.

Assisting the Client upon Withdrawal

[9] Even if the lawyer has been unfairly discharged by the client, a lawyer must take all reasonable steps to mitigate the consequences to the client. See Rule 1.15. Upon termination of representation, a lawyer shall provide, upon request, the client's file to the client notwithstanding any other law, including attorney lien laws. It is impossible to set forth one all encompassing definition of what constitutes the client file. However, the client file generally would include the following: all papers and property the client provides to the lawyer; litigation materials such as pleadings, motions, discovery, and legal memoranda; all correspondence; depositions; expert opinions; business records; exhibits or potential evidence; and witness statements. The client file generally would not include the following: the lawyer's work product such as recorded mental impressions; research notes; legal theories; internal memoranda; and unfiled pleadings. The Utah rule differs from the ABA Model Rule in requiring that papers and property considered to be part of the client's file be returned to the client notwithstanding any other laws or fees or expenses owing to the lawyer.

Rule 8.1. Bar Admission and Disciplinary Matters.

An applicant for admission to the Bar, or a lawyer in connection with a Bar admission application or in connection with a disciplinary matter, shall not:

- (a) Knowingly make a false statement of material fact; or
- (b) Fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6.

Comment

[1] The duty imposed by this Rule extends to persons seeking admission to the Bar as well as to lawyers. Hence, if a person makes a material false statement in connection with an application for admission, it may be the basis for subsequent disciplinary action if the person is admitted, and in any event may be relevant in a subsequent admission application. The duty imposed by this Rule applies to a lawyer's own admission or discipline as well as that of others. Thus, it is a separate professional offense for a lawyer to knowingly make a misrepresentation or omission in connection with a disciplinary investigation of the lawyer's own conduct. Paragraph (b) of this Rule also requires correction of any prior misstatement in the matter that the applicant or lawyer may have made and affirmative clarification of any misunderstanding on the part of the admissions or disciplinary authority of which the person involved becomes aware.

[2] This Rule is subject to the provisions of the Fifth Amendment of the United States Constitution and corresponding provisions of state constitutions. A person relying on such a provision in response to a question, however, should do so openly and not use the right of nondisclosure as a justification for failure to comply with this Rule.

[3] A lawyer representing an applicant for admission to the Bar, or representing a lawyer who is the subject of a disciplinary inquiry or proceeding, is governed by the rules applicable to the client-lawyer relationship, including Rule 1.6 and in some cases Rule 3.3.

Rule 8.4. Misconduct.

It is professional misconduct for a lawyer to:

- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;
- (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- (d) engage in conduct that is prejudicial to the administration of justice;
- (e) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law; or
- (f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law.

Comment

[1] Lawyers are subject to discipline when they violate or attempt to violate the Rules of Professional Conduct or knowingly assist or induce another to do so through the acts of another, as when they request or instruct an agent to do so on the lawyer's behalf. Paragraph (a), however, does not prohibit a lawyer from advising a client concerning action the client is legally entitled to take.

[1a] A violation of paragraph (a) based solely on the lawyer's violation of another Rule of Professional Conduct shall not be charged as a separate violation. However, this rule defines professional misconduct as a violation of the Rules of Professional Conduct as the term professional misconduct is used in the Supreme Court Rules of Professional Practice, including the Standards for Imposing Lawyer Sanctions. In this respect, if a lawyer violates any of the Rules of Professional Conduct, the appropriate discipline may be imposed pursuant to Rule 14-605.

[2] Many kinds of illegal conduct reflect adversely on fitness to practice law, such as offenses involving fraud and the offense of willful failure to file an income tax return. However, some kinds of offenses carry no such implication. Traditionally, the distinction was drawn in terms of offenses involving "moral turpitude." That concept can be construed to include offenses concerning some matters of personal morality, such as adultery and comparable offenses, that have no specific connection to fitness for the practice of law. Although a lawyer is personally answerable to the entire criminal law, a lawyer should be professionally answerable only for offenses that indicate lack of those characteristics relevant to law practice. Offenses involving violence, dishonesty, breach of trust or serious interference with the administration of justice are in that category. A pattern of repeated offenses, even ones of minor significance when considered separately, can indicate indifference to legal obligation.

[3] A lawyer who, in the course of representing a client, knowingly manifests by words or conduct bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, violates paragraph (d) when such actions are prejudicial to the administration of justice. Legitimate advocacy respecting the foregoing factors does not violate paragraph (d). A trial judge's finding that peremptory challenges were exercised on a discriminatory basis does not alone establish a violation of this rule.

[3a] The Standards of Professionalism and Civility approved by the Utah Supreme Court are intended to improve the administration of justice. An egregious violation or a pattern of repeated violations of the Standards of Professionalism and Civility may support a finding that the lawyer has violated paragraph (d).

[4] A lawyer may refuse to comply with an obligation imposed by law upon a good faith belief that no valid obligation exists. The provisions of Rule 1.2(d) concerning a good faith challenge to the validity, scope, meaning or application of the law apply to challenges of legal regulation of the practice of law.

[5] Lawyers holding public office assume legal responsibilities going beyond those of other citizens. A lawyer's abuse of public office can suggest an inability to fulfill the professional role of lawyers. The same is true of abuse of positions of private trust such as trustee, executor, administrator, guardian, agent and officer, director or manager of a corporation or other organization.

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 October 19, 2018, I deposited a true copy of the following document(s):

STPULATION 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:

AMY L. BUTTERS
BUTTERS LAW, P.C.
PO BOX 150830
OGDEN, UT 84415

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

KATHERINE KINSEY, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 19, 2018.



Paul Songco
Court Specialist
State Bar Court