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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><b>Shannon Broderick</b> Deputy Trial Counsel 845 South Figueroa Street Los Angeles, CA 90017 (213) 765-1215</p> <p>Bar # 247993</p>	<p>Case Number(s): <b>18-O-13544-CV</b></p>           <p>kwiktag®      241 073 033</p> 	<p>For Court use only</p>           <p><b>FILED</b> <i>W.S.</i></p> <p><b>APR 15 2019</b></p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>Counsel For Respondent</p> <p><b>Ellen A. Pansky</b> Pansky Markle Attorneys at Law 1010 Sycamore Avenue, Unit 308 South Pasadena, CA 91030-6139 (213) 626-7300</p> <p>Bar # 77688</p>	<p>Submitted to: <b>Settlement Judge</b></p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p><b>ACTUAL SUSPENSION</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: <b>PHYLLIS R. COLMAN</b></p> <p>Bar # 98314</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 **May 29, 1981**.
- (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. **SELECT ONE** of the costs must be paid with Respondent's membership fees for each of the following years:  
  
If Respondent fails to pay any installment as described above, or as may be modified in writing by the State Bar or the State Bar Court, the remaining balance will be due and payable immediately.
  - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs."
  - Costs are entirely waived.

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

- (1)  **Prior record of discipline:**
- (a)  State Bar Court case # of prior case:
  - (b)  Date prior discipline effective:
  - (c)  Rules of Professional Conduct/ State Bar Act violations:
  - (d)  Degree of prior discipline:
  - (e)  If Respondent has two or more incidents of prior discipline, use space provided below.
- (2)  **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3)  **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by, misrepresentation.
- (4)  **Concealment:** Respondent's misconduct was surrounded by, or followed by, concealment.

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

**Additional aggravating circumstances:**

**C. Mitigating Circumstances [Standards 1.2(i) & 1.6]. Facts supporting mitigating circumstances are required.**

- (1)  **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not likely to recur.
- (2)  **No Harm:** Respondent did not harm the client, the public, or the administration of justice.
- (3)  **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of Respondent's misconduct or to the State Bar during disciplinary investigations and proceedings.
- (4)  **Remorse:** Respondent promptly took objective steps demonstrating spontaneous remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of Respondent's misconduct.
- (5)  **Restitution:** Respondent paid \$ \_\_\_\_\_ on \_\_\_\_\_ in restitution to \_\_\_\_\_ without the threat or force of disciplinary, civil or criminal proceedings.
- (6)  **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced Respondent.
- (7)  **Good Faith:** Respondent acted with a good faith belief that was honestly held and objectively reasonable.

- (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:**

**No Prior Discipline - See page 13.**  
**Pretrial Stipulation - See page 13.**  
**Good Character - See page 13.**

**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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

IN THE MATTER OF:                      PHYLLIS R. COLMAN

CASE NUMBER:                            18-O-13544

**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. 18-O-13544 (Complainant: Matthew Asunnomeh)

**FACTS:**

1. On February 17, 2016, Matthew Asunnomeh (“Asunnomeh”) met with respondent and hired her to file a Petition to Remove Conditions on Residence (“I-751”) with the United States Citizenship and Immigration Services (“USCIS”).
2. During Asunnomeh’s meeting with respondent on February 17, 2016, respondent instructed Asunnomeh to pre-sign a Notice of Entry of Appearance as Attorney or Accredited Representation (“G-28”), which he did at her direction. Respondent also instructed Asunnomeh to pre-sign an I-751 form, which he did at her direction.
3. On December 21, 2016, respondent emailed a completed version of the I-751 form to Asunnomeh for his review and approval for filing with the USCIS. At no time thereafter did Asunnomeh sign and return the I-751 form or authorize respondent to submit the I-751 form to the USCIS.
4. On December 21, 2016, respondent submitted the I-751 form, fully executed with December 19, 2016 inserted as the date of Asunnomeh’s signature, to the USCIS, via FedEx Standard Overnight shipping. Accompanying the I-751 form was a completed and fully executed G-28 form, with November 21, 2016 inserted as the date of Asunnomeh’s signature. Respondent submitted the forms to the USCIS, declaring under penalty of perjury that the information in the forms was true and correct.
5. On December 22, 2016, the USCIS received the I-751 and G-28 forms submitted by respondent.
6. On December 22, 2016, Asunnomeh emailed respondent with questions about typographical errors in the I-751 form. Asunnomeh followed up his email with a text message to respondent notifying respondent that he sent an email to her. Respondent received Asunnomeh’s email and text message.
7. On December 26, 2016, Asunnomeh emailed respondent again seeking her reply to his email of December 22, 2016. Respondent received Asunnomeh’s email.
8. On January 3 and 10, 2016, respondent called Asunnomeh in relation to his immigration matter.

9. On January 12, 2017, respondent emailed Asunnomeh, notifying him of a biometrics Appointment scheduled by the USCIS. Asunnomeh thereafter received via mail a copy of the USCIS's biometrics appointment notice and the USCIS's notice that immigration forms were received on his behalf on December 22, 2016.

10. On January 26, 2017, Asunnomeh called respondent. During the conversation, respondent confirmed that she filed an I-751 form with the USCIS on Asunnomeh's behalf.

11. On January 28, 2017, Asunnomeh emailed respondent asking for a copy of the I-751 that she filed on his behalf. Respondent received Asunnomeh's email, but did not reply to the email.

12. On January 30, 2017, Asunnomeh emailed respondent seeking clarification regarding the I-751 form filed on his behalf. Respondent received Asunnomeh's email, but did not reply to the email.

13. In March, April, and May 2017, respondent and Asunnomeh communicated with each other about Asunnomeh's divorce in relation to his immigration matter.

14. Asunnomeh thereafter terminated respondent's representation and hired new counsel, who substituted into the matter on or about September 20, 2017. At no time prior to respondent's termination did she file an amended I-751 form or otherwise correct the typographical errors contained in the form.

15. In October 2017, Asunnomeh submitted a Freedom of Information Act ("FOIA") request to the United States Department of Homeland Security in order to obtain a copy of the documents filed with the USCIS by respondent on his behalf, as respondent had not provided him with a copy despite his requests. Asunnomeh later received a package from the USCIS in response to his FOIA request.

16. In November 2017, as a result of respondent's misconduct, Asunnomeh notified the USCIS that the I-751 form submitted by respondent on his behalf was done so without his knowledge or authorization and contained inaccurate information. Asunnomeh's request to modify his conditional resident status remains unresolved; however, he remains in the United States.

17. On March 29, 2018, respondent released to Asunnomeh a completed and fully executed I-751 form, among other documents.

#### CONCLUSIONS OF LAW:

18. By submitting the G-28 form and the I-751 form to the USCIS under penalty of perjury knowing that i) Asunnomeh had pre-signed the forms and therefore the date of Asunnomeh's signature was false and ii) Asunnomeh had not verified that the content in the completed forms was true and correct before the forms were filed, respondent made misrepresentations to the USCIS and thereby committed acts involving moral turpitude, in willful violation of Business and Professions Code section 6106.

19. By failing to promptly respond to Asunnomeh's emails of January 28, 2017 and January 30, 2017, regarding respondent's filing of the I-751 form without Asunnomeh's approval of the completed form, in a matter in which respondent had agreed to provide legal services, respondent failed to promptly respond to client inquiries, in willful violation of Business and Professions Code section 6068(m).

20. By submitting the I-751 form on Asunnomeh's behalf prior to Asunnomeh verifying that the content in the completed form was true and correct and failing to file an amended form or otherwise correct inaccuracies contained in the form once Asunnomeh made respondent aware of the inaccuracies, respondent intentionally, repeatedly and recklessly failed to perform legal services with competence, in willful violation of former rule 3-110(A), of the Rules of Professional Conduct.

#### **AGGRAVATING CIRCUMSTANCES.**

**Multiple Acts of Wrongdoing (Std. 1.5(b)):** Respondent committed multiple acts of wrongdoing, including submitting a pre-signed G-28 form and a pre-signed I-751 form to the USCIS on Asunnomeh's behalf prior to Asunnomeh's verification that the content in the completed forms was true and correct, failing to competently perform on behalf of Asunnomeh, and failing to respond to two of Asunnomeh's inquiries. (*In the Matter of Bach* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631, 646-647 [where three instances of misconduct were sufficient to support a finding that the attorney engaged in multiple acts of misconduct].)

**Highly Vulnerable Victim (Std. 1.5(n)):** By virtue of Asunnomeh's temporary conditional resident status at the time he hired respondent and the fact that he relied on respondent to assist him to avoid deportation, Asunnomeh was a vulnerable victim. (See *In the Matter of Brockway* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944, 950 [immigration client status is precarious with potential for serious harm].)

#### **MITIGATING CIRCUMSTANCES.**

**No Prior Discipline:** Respondent has approximately 35 years of discipline-free practice after being admitted to practice law in California on May 29, 1981. (*In the Matter of Elkins* (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160, 167 [attorney with 24 years of discipline-free practice is entitled to "significant" mitigation].)

**Pretrial Stipulation:** By entering into this stipulation, respondent is entitled to mitigation for recognition of wrongdoing and saving the State Bar Court and the Office of Chief Trial Counsel 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].)

**Good Character:** Respondent has provided eleven (11) letters from individuals attesting to her good character. The individuals include colleagues of respondent's in the legal profession, friends of respondent's outside of the legal profession, professors, and a rabbi. The individuals have each known respondent for a significant period of time and indicated they are aware of the charges against respondent. (*In the Matter of Wells* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896, 912-13 [where mitigative weight given for eight character witnesses testifying as to the attorney's diligence, integrity, honesty, and dedication to her clients and most witnesses were aware of the charges against the attorney].)

## AUTHORITIES SUPPORTING DISCIPLINE.

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

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

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

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

The most severe sanction applicable to respondent’s misconduct is found in standard 2.11, which applies to respondent’s acts of moral turpitude in violation of Business and Professions Code section 6106.

Standard 2.11 provides that disbarment or actual suspension is warranted for an act of moral turpitude, dishonesty, fraud, corruption, intentional or grossly negligent misrepresentation, or concealment of a material fact. The degree of sanction depends on the magnitude of the misconduct, the extent to which the misconduct harmed or misled the victim, any impact on the administration of justice, and the extent to which the misconduct related to the member’s practice of law.

Here, the gravamen of respondent’s misconduct concerns her submitting a pre-signed G-28 form and a pre-signed I-751 form to the USCIS on Asunnomeh’s behalf, prior to Asunnomeh’s verification that the content in the completed forms was true and correct. The magnitude of respondent’s misconduct is significant, because it involved a vulnerable client-victim, the client had to take remedial steps to address respondent’s misconduct with the USCIS and hire another attorney, and his request to modify his resident status remains unresolved. Although respondent committed multiple acts of

wrongdoing, this factor is given nominal weight in aggravation. In mitigation, respondent has a 35-year discipline-free record of practice, has provided evidence of her good character, and has entered into this stipulation, thereby, recognizing her wrongdoing and saving the State Bar Court and the Office of Chief Trial Counsel significant resources and time. On balance, the aggravating circumstances outweigh the mitigating circumstances present, and accordingly, a significant period of actual suspension is necessary to serve the purposes of attorney discipline. Specifically, a one (1) year stayed suspension and one (1) year probation with conditions, including ninety (90) days' actual suspension, is consistent with and supported by the Standards.

The recommended discipline is supported by case law. In *In the Matter of Dixon* (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 23, Dixon was found culpable of moral turpitude by having clients sign blank pleading forms, which were to be filed under penalty of perjury. In total, the court found Dixon culpable for 25 ethical violations, including four acts of moral turpitude. (*Id.* at p. 62.) The court noted that Dixon's misconduct was serious and repeated over a substantial period of time. (*Id.* at p. 58.) Also, the court found multiple factors of serious aggravation, including finding that Dixon's acts seriously harmed the administration of justice, the public, and the profession; however, the court factored in as mitigation Dixon's 12 plus years of discipline-free practice. (*Id.* at p. 62.) The court recommended that Dixon be disbarred. (*Id.* at p. 64.) Here, respondent presents highly significant mitigation with her 35 years of discipline-free practice. Also, unlike *Dixon*, respondent's misconduct only concerns one client. Thus, although the misconduct here is similar to Dixon's misconduct, respondent's misconduct does not warrant disbarment as imposed in *Dixon*.

In *Drociak v. State Bar* (1991) 52 Cal.3d 1085, Drociak was found culpable of moral turpitude by using pre-signed verifications during discovery in a civil case, without first consulting with his client to ensure the responses were true. Drociak used the pre-signed verifications because he was unsuccessful in reaching his client to review the responses despite multiple attempts. (See *Id.* at p. 1087.) The court imposed a one year stayed suspension with two years' probation with conditions, including 30 days' actual suspension. (*Id.* at p. 1091.) The court found in aggravation that Drociak's misconduct posed a threat of harm to the administration of justice and he demonstrated no remorse for his actions. In mitigation, the court found that Drociak had 25 years of practice with no prior discipline and there was no harm to his client. Similar to *Drociak*, respondent presents highly significant mitigation with her 35 years of discipline free practice. On the other hand, like *Drociak*, respondent's misconduct posed a threat of harm to the administration of justice and respondent demonstrated no remorse for her misconduct. Moreover, respondent's client was a vulnerable victim, unlike *Drociak*, and he had to address with the USCIS the misrepresentations made by respondent, has been unable to resolve his resident status, and had to hire another attorney to complete the legal services for which he hired and paid respondent. In addition, respondent's client was reachable and responsive to her communications, unlike *Drociak*; thus, respondent could have obtained her client's verification of the contents of the immigration forms before she submitted the forms to the USCIS. As such, respondent's misconduct is more egregious than the misconduct in *Drociak* and therefore warrants more severe discipline than the 30 days' actual suspension imposed there.

#### **WAIVER OF VARIANCE BETWEEN NOTICE OF DISCIPLINARY CHARGES AND STIPULATED FACTS AND CULPABILITY.**

The parties waive any variance of discrepancy between the Notice of Disciplinary Charges filed in this matter and the factual statements and conclusions set forth in this stipulation.

**DISMISSALS.**

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

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
18-O-13544	Three	Business and Professions Code section 6068(m)
18-O-13544	Four	Business and Professions Code section 6106

**COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of March 14, 2019, the discipline costs in this matter are \$3,857. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

**EXCLUSION FROM MINIMUM CONTINUING EDUCATION (“MCLE”) CREDIT**

Pursuant to rule 3201, respondent may not receive MCLE credit for completion of State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)



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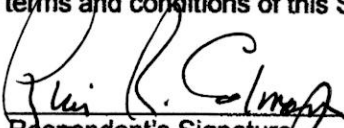
In the Matter of: PHYLLIS R. COLMAN	Case Number(s): 18-O-13544-CV
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### SIGNATURE OF THE PARTIES

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.

March 20, 2019

Date



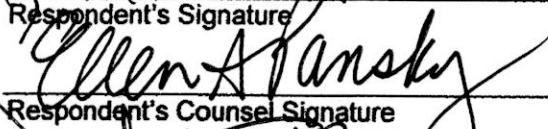
Respondent's Signature

Phyllis R. Colman

Print Name

March 21, 2019

Date



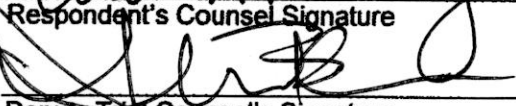
Respondent's Counsel Signature

Ellen A. Pansky

Print Name

March 21, 2019

Date



Deputy Trial Counsel's Signature

Shannon Broderick

Print Name

(Do not write above this line.)

In the Matter of: PHYLLIS R. COLMAN	Case Number(s): 18-O-13544-CV
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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.

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).)

April 15, 2019  
Date

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

**CERTIFICATE OF SERVICE**

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

I am a 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 April 15, 2019, I deposited a true copy of the following document(s):

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

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


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

Ellen A. Pansky  
Pansky Markle Attorneys at Law  
1010 Sycamore Ave Unit 308  
S Pasadena, CA 91030-6139

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

Shannon Broderick, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on April 15, 2019.

  
\_\_\_\_\_  
Paul Songco  
Court Specialist  
State Bar Court