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**State Bar Court of California  
Hearing Department  
Los Angeles**

Counsel For The State Bar  <b>Charles T. Calix</b> 1149 S. Hill Street Los Angeles, CA 90015 213-765-1255  Bar # 146853	Case Number (s) <b>00-O-14388</b>  <b>PUBLIC MATTER</b>	(for Court's use)  <div align="center"> <b>FILED</b>          NOV 27 2006 <i>loc</i>          STATE BAR COURT          CLERKS OFFICE          LOS ANGELES       </div>
Counsel For Respondent  <b>Susan L. Margolis</b> <b>Margolis &amp; Margolis</b> 2000 Riverside Drive Los Angeles, CA 90039 323-953-8996  Bar # 104629	Submitted to: <b>Settlement Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>STAYED SUSPENSION; NO ACTUAL SUSPENSION</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter Of: <b>Maria F. Alvarez</b>  Bar # 128136  A Member of the State Bar of California (Respondent)		

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

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted **June 17, 1987**.
- (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 **10** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004.)

Stayed Suspension

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- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- costs added to membership fee for calendar year following effective date of discipline.
  - costs to be paid in equal amounts prior to February 1 for the following membership years: **two billing cycles following the effective date of the Supreme Court Order.**  
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
  - costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
  - costs entirely waived

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

- (1)  **Prior record of discipline** [see standard 1.2(f)]
- (a)  State Bar Court case # of prior case
  - (b)  Date prior discipline effective
  - (c)  Rules of Professional Conduct/ State Bar Act violations:
  - (d)  Degree of prior discipline
  - (e)  If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline."
- (2)  **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3)  **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4)  **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6)  **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7)  **Multiple/~~Pattern of Misconduct~~:** Respondent's current misconduct evidences multiple acts of wrongdoing, ~~or demonstrates a pattern of misconduct.~~
- (8)  **No aggravating circumstances** are involved.

**Additional aggravating circumstances**

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004.)

Stayed Suspension

**C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.**

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

**Additional mitigating circumstances**

**EMOTIONAL/PHYSICAL DIFFICULTIES:**

At the time of the stipulated acts of misconduct, Respondent suffered extreme emotional distress following the death of her father, Robert H. Everett, on or about June 10, 1983, and mother, Mae K. Everett, on or about February 9, 1990, from medical complications due to alcoholism. Respondent did not want to continue operating their business, and experienced extreme emotional difficulties dealing with the sale of the Allstate Cafe because both of her parents had died of alcoholism, and because the Allstate Cafe was the only significant asset that they had bequeathed to her. Expert testimony would

establish that Respondent's extreme emotional difficulties were directly responsible for her misconduct.

#### D. Discipline:

(1)  Stayed Suspension:

(a)  Respondent must be suspended from the practice of law for a period of 90 day.

- i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- ii.  and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii.  and until Respondent does the following:

The above-referenced suspension is stayed.

(2)  Probation:

Respondent is placed on probation for a period of **two years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 953, California Rules of Court)

#### E. Additional Conditions of Probation:

- (1)  During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2)  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.
- (3)  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.
- (4)  Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

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

- (5)  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.

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During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.

- (6)  Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (7)  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 State Bar Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason:
- (8)  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.
- (9)  The following conditions are attached hereto and incorporated:
- |   |   |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions         | <input type="checkbox"/> Financial Conditions             |

#### F. Other Conditions Negotiated by the Parties:

- (1)  **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 951(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
- No MPRE recommended. Reason:
- (2)  **Other Conditions:**

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Attachment language (if any):

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

**IN THE MATTER OF:**                      **MARIA F. ALVAREZ**

**CASE NUMBER(S):**                      **00-0-14388**

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.

**FACTS:**

Robert H. Everett and Mae K. Everett were Respondent's adoptive parents, and owned and operated a bar known as the Allstate Cafe & Cocktail Lounge, Inc. ("Allstate Cafe").

Prior to December 1977, the Allstate Cafe was formed as a corporation.

On June 10, 1983, Robert H. Everett died.

On or about July 1, 1983, Mae K. Everett and Respondent agreed in writing that Respondent would have authority to sell, transfer and otherwise dispose of the stock of Allstate Cafe upon the death of Mae K. Everett. The agreement was neither a valid *inter vivos* transfer nor a valid will, and as such, had no legal effect for this transaction.

On February 9, 1990, Mae K. Everett died. Thereafter, Respondent hired a broker to assist her in selling the Allstate Cafe. The broker introduced Respondent to Fern Welch and Robert C. Martin, collectively referred to as "the Buyers," who were interested in buying the Allstate Cafe; to the escrow company, Gramercy Escrow Corporation ("Gramercy"), and to Gramercy's president, Ted Hicks ("Hicks.")

In or about September or October, 1990, Respondent entered into an escrow to sell the stock of the Allstate Cafe to the Buyers. Respondent signed the escrow instructions as a representative of the estates of her deceased parents, even though she knew that no probate had been opened.

On or about May 4, 1994, Respondent filed a lawsuit in Los Angeles Municipal Court ("LAMC") against Gramercy and Hicks titled *Maria F. Alvarez v. Gramercy Escrow Corporation, Ted J. Hicks, Gramercy Escrow, Al Tossas, Action Business, & Gloria Beaver*, LAMC Case No. 94C01477 ("*Alvarez v. Gramercy P*") alleging causes of action for breach of contract, common counts, and fraud concerning the sale of the Allstate Cafe. Respondent filed the complaint in her individual capacity. The gravamen of the complaint was the alleged misappropriation of approximately \$18,327.00 held in escrow by Gramercy and Hicks. Gramercy and Hicks filed, among other things, a cross complaint in interpleader and a motion for costs and sanctions. In July 1997, the complaint was dismissed because the court held Respondent had no standing to sue in her individual capacity.

Respondent then filed the probates for her parents' estates and was appointed their personal representative. After the trial court rejected Respondent's request to amend and reopen the original complaint, Respondent, on or about October 31, 1997, filed a second complaint against Gramercy and Hicks in Los Angeles Superior Court in her capacity as the personal representative of the estate of Mae K. Everett titled *Maria F. Alvarez v. Gramercy Escrow Corporation, Ted J. Hicks, Gramercy Escrow, Al Tossas, Action Business, & Gloria Beaver*, LASC Case No. NC022358 ("*Alvarez v. Gramercy II.*"). That complaint was dismissed on motion for summary judgment because the statute of limitations had run.

On or about September 29, 2000, the L.A. Superior Court gave judgment to Gramercy and Hicks on its original interpleader action in *Alvarez v. Gramercy I*, and entered an award of \$70,000 in attorney's fees and costs to Gramercy and Hicks. On or about July 30, 2002, the Court of Appeal affirmed the September 29, 2000, decision of the Superior Court in *Alvarez v. Gramercy I*. The Court upheld the award of fees and costs against Respondent for prosecuting the action on behalf of her parents' estates when she lacked standing to do so, since no probate of their estates had been filed.

#### **CONCLUSION OF LAW:**

By failing to disclose that she did not have authority to enter into escrow and by then entering into escrow on behalf of the estates of Robert H. Everett and Mae K. Everett when Respondent knew that the estates had not been probated, and by filing and prosecuting *Alvarez v. Gramercy I* when she knew or should have known by conducting a reasonable investigation that she lacked standing to file or prosecute the matter, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of Rules of Professional Conduct, rule 3-110(A).

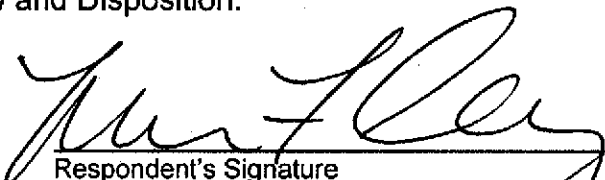




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In the Matter of MARIA F. ALVAREZ	Case number(s): 00-O-14388
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### SIGNATURE OF THE PARTIES

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

<u>11/1/06</u> Date	 Respondent's Signature	<u>Maria F. Alvarez</u> Print Name
<u>11/1/06</u> Date	 Respondent's Counsel Signature	<u>Susan L. Margolis</u> Print Name
<u>11-1-06</u> Date	 Deputy Trial Counsel's Signature	<u>Charles T. Calix</u> Print Name

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In the Matter Of <b>MARIA F. ALVAREZ</b>	Case Number(s): <b>00-O-14388</b>
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**ORDER**

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- All Hearing dates are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 135(b), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 953(a), California Rules of Court.)**

Nov. 21, 2006  
Date

  
Judge of the State Bar Court

**RICHARD A. PLATEL**

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on November 27, 2006, 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:

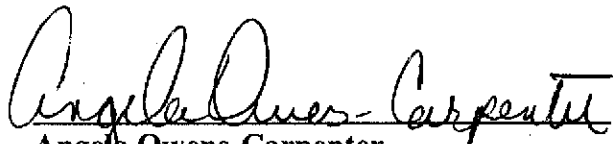
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**SUSAN MARGOLIS  
MARGOLIS & MARGOLIS LLP  
2000 RIVERSIDE DRIVE  
LOS ANGELES CA 90039**

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

**CHARLES CALIX, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **November 27, 2006.**



**Angela Owens-Carpenter**  
Case Administrator  
State Bar Court