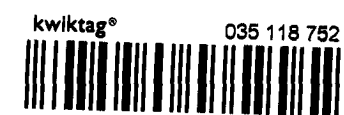


ORIGINAL

State Bar Court of the State Bar of California
Hearing Department: ☒ Los Angeles ☐ San Francisco
PILOT PROGRAM FOR RESPONDENTS WITH SUBSTANCE ABUSE AND MENTAL HEALTH ISSUES

Counsel for the State Bar THE STATE BAR OF CALIFORNIA BROOKE SCHAFER, No. 194824 DEPUTY TRIAL COUNSEL 1149 South Hill Street Los Angeles, CA 90015-2299	Case Number(s) 01-0-00681 - RAH 02-0-12999 01-0-04282 02-0-13575	(for Court use)
Counsel for Respondent JoAnne Robbins Karpman & Associates 9200 Sunset Blvd. PH #7 Los Angeles, CA 90069	<div style="text-align: center;"> CONFIDENTIAL PUBLIC MATTER </div> <div style="text-align: right;"> LODGED JUL 15 2005 STATE BAR COURT CLERK'S OFFICE LOS ANGELES FILED JAN 02 2008 </div>	
In the Matter of PAMELA A. MOZER Bar # 155893 A Member of the State Bar of California (Respondent)	Submitted to Pilot Program Judge STIPULATION RE FACTS AND CONCLUSIONS OF LAW <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	



A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted December 16, 1991
(Date)
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, if Respondent is not accepted into the Lawyer Assistance Program, this stipulation will be rejected and will not be binding on Respondent or the State Bar.
- (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." This stipulation consists of 19 pages.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts".
- (5) Conclusions of law, drawn from and specifically referring to the facts, are also included under "Conclusions of Law."
- (6) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§ 6086.10 & 6140.7 and will pay timely any disciplinary costs imposed in this proceeding.

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

B. Aggravating Circumstances (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 Action violations _____

- (d) ☐ Degree of prior discipline _____
- (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below or under "Prior Discipline"
- (2) ☒ Dishonesty: Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) ☐ Trust violation: Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) ☐ Harm: Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) ☒ Indifference: Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) ☐ Lack of Cooperation: Respondent displayed a lack of candor and cooperation to the victims of his/her misconduct or the State Bar during disciplinary investigation or proceedings.
- (7) ☒ Multiple/Pattern of Misconduct: Respondent's current misconduct evidences multiple acts of wrong doing or demonstrates a pattern of misconduct.
- (8) ☐ No aggravating circumstances are involved.

Additional aggravating circumstances:

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

- (1) ☒ No Prior Discipline: Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) ☐ No Harm: Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☐ Candor/Cooperation: Respondent displayed spontaneous candor and cooperation to the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) ☐ Remorse: Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ Restitution: Respondent paid \$ _____ on _____ in restitution to _____ without the threat of 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 were directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drugs 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:

Respondent enters into this stipulation as a condition of his/her participation in the Pilot Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Pilot Program Contract.

If the Respondent is not accepted into the Pilot Program or does not sign the Pilot Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

If the Respondent is accepted into the Pilot Program, upon Respondent's successful completion of or termination from the Program, this Stipulation will be filed and the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Statement Re: Discipline shall be imposed or recommended to the Supreme Court.

12/15/04
Date

[Signature]
Respondent's Signature

Pamela Mozer
Print Name

December 16, 2004
Date

[Signature]
Respondent's Counsel Signature

JoAnne Earls-Robbins
Print Name

12/17/04
Date

[Signature]
Deputy Trial Counsel's Signature

Brooke Schafer
Print Name

1 **Attachment to Pilot Program Stipulation re: Facts and Conclusions of**
2 **Law**
3 ***In re Pamela A. Mozer***

4 Case nos. 01-O-00681; 02-O-12999; 01-O-4282 and 02-O-13575

5 **I. JURISDICTION**

6 1. Respondent, Pamela A. Mozer, bar no. 155893, was admitted to the
7 practice of law California on December 16, 1991, and since that time has been a
8 member of the State Bar of California.

9 **II. STATEMENT OF ACTS OR OMISSIONS ACKNOWLEDGED BY**
10 **RESPONDENT AS CAUSE OR CAUSES FOR DISCIPLINE, AND**
11 **CONCLUSIONS OF LAW**

12 **Case no. 01-O-00681 (ACI)**

13 2. On December 15, 1993, Respondent was employed by Asgard
14 Communications, Inc. ("ACT"), through its President and fifty percent
15 shareholder Cecil Hollingsworth ("Hollingsworth"), to defend it against a
16 lawsuit filed by ACT's other fifty percent shareholder, Adrian George
17 ("George").

18 3. Pursuant to the terms of the written fee agreement between
19 Respondent and ACI, Respondent was to be paid at a rate of \$150.00 per hour.
20 The agreement further provide that any dispute regarding the fees and costs was
21 to be resolved by binding arbitration and the right to any court trial regarding a
22 fee dispute was expressly waived. The written fee agreement did not authorize
23 Respondent to charge interest on late payments. The written fee agreement also
24 provided that Respondent would bill ACI monthly once the \$2000.00 advance
25 fees were exhausted.

26 4. Between December 1993 and December 1995, Respondent received
27 approximately 12 payments from ACI totaling approximately \$7,400.00 in
28 partial satisfaction of her billings for legal services, less than a third of what she

1 had billed to date.

2 5. On January 29, 1996, Respondent, as counsel for ACI, received
3 \$258,050.00 constituting the sale of ACI's assets. This money was to be held in
4 trust on behalf of ACI.

5 6. In March 1996 the parties agreed to dismiss the shareholder action in
6 order to complete a binding arbitration, and Respondent was to maintain the
7 \$258,050.00 in an interest-bearing trust account for the benefit of ACI, its
8 shareholders and its creditors until the arbitration was completed.

9 7. On January 29, 1999, Respondent sent an invoice to Hollingsworth
10 demanding that ACI pay her approximately \$60,908.37 in legal fees for work
11 Respondent claimed she performed on behalf of ACI between 1993 and January
12 29, 1999, of which approximately \$19,000.00 was billed from November 1996 to
13 January 29, 1999. This amounts included interest at a rate of ten percent a year
14 even though the written fee agreement did not provide for interest. Prior to this
15 January 29, 1999, billing, Respondent had not sent Hollingsworth a bill for
16 services performed on behalf of ACI for approximately three years, despite
17 express language in the written fee agreement that Respondent would bill her
18 client monthly.

19 8. In February 2000 Respondent sent Hollingsworth another invoice
20 demanding ACI pay the sum of approximately \$70,000.00. Approximately
21 \$50,323.00 was for Respondent's claimed legal fees for work she claimed she
22 performed on behalf of ACI and the balance of \$28,417.13 was for interest at a
23 rate of ten percent per year.

24 9. Between April 1996 and February 2000, no arbitration in the
25 shareholder action had taken place even though Respondent had billed ACI for
26 no less than 73 hours of attorney work. This amounted to approximately
27 \$11,500.00 for attorneys fees and interest charges. Between 1996 and 1999

1 there were occasional attempts to get the matter into arbitration, but between
2 early 1999 and February 2000 Respondent's primary function was to hold ACI's
3 funds in trust.

4 10. In July 1999, Hollingsworth retained counsel, Tshombe Sampson
5 ("Sampson") to represent his personal interests with respect to ACI. Sampson
6 then filed a petition on behalf of Hollingsworth for corporate dissolution of ACI
7 in a case entitled, *Cecil Hollingsworth v. Asgard Communications, Inc., et.al.*,
8 ("the corporate dissolution action"). The action was filed in the Central District
9 of Los Angeles Superior Court and the dissolution of the corporation known as
10 ACI was being supervised by that particular court at all times relevant hereto.

11 11. In February 2000, Respondent filed suit against ACI in the West
12 District of the Los Angeles Superior Court, in a matter entitled *Pamela Mozer v.*
13 *Asgard Communications, Inc.*, ("the attorneys fees action"). In the attorneys
14 fees action, Respondent alleged ACI breached the contract with her to pay
15 attorneys fees, and that ACI owed her approximately \$50,323.50 in attorneys
16 fees and approximately \$28,417.13 in interest.

17 12. At the time she filed the attorneys fees action, Respondent knew that
18 Hollingsworth had filed the corporate dissolution action in the Central District,
19 and that the Central District was supervising the corporate dissolution and
20 distribution of ACI's remaining assets to shareholders and creditors.

21 13. At the time Respondent filed the attorneys fees action against ACI
22 she was still the attorney for ACI and was still holding the \$258,050.00, plus any
23 interest, in trust for ACI.

24 14. Respondent filed the attorneys fees action even though the express
25 terms of the written fee agreement which she had drafted contained a binding
26 arbitration clause. After filing the attorneys fees action, Respondent then took
27 the position that the binding arbitration clause she had put in the agreement was

1 illegal, and therefore not enforceable against her.

2 15. In March 2000, attorney Sampson filed a Notice of Related Cases in
3 the attorneys fees action on behalf of Hollingsworth, which Respondent opposed.
4 In April 2000 Respondent filed a Request for Entry of Default against ACI in the
5 attorney fees action based on ACI's failure to file an answer to the complaint. At
6 that time, Respondent was still counsel for ACI and still held entrusted funds
7 belonging to ACI. Moreover, at the time ACI could not file an answer to her
8 complaint or defend itself in the attorneys fees action because the corporation
9 had been suspended by the state for unpaid taxes and was no longer a legally
10 recognized corporation. On or about March 3, 2000, pursuant to court order
11 Respondent paid out of ACI's funds back taxes it owed to the IRS and state
12 Franchise Tax Board. Thereafter, ACI's corporate status could have been
13 reinstated.

14 16. In April 2000, the West District of the Los Angeles Superior Court
15 entered ACI's default in the attorneys fees action. In June 2000, Los Angeles
16 Superior Court found the attorneys fees action and the corporate dissolution
17 action to be related cases and ordered the attorneys fees action to be transferred
18 from the West District to the Central District.

19 17. In August 2000, the court concluded that neither counsel for George
20 nor counsel for Hollingsworth could defend ACI against the attorneys fees
21 action, and ordered that ACI retain counsel to make an independent appraisal as
22 to whether or not it was in the best financial interest of ACI to defend such
23 action on behalf of ACI. Consequently, in the Fall of 2000, Hollingsworth and
24 George hired new counsel to defend ACI in the attorneys fees action.

25 18. On October 16, 2000, Respondent discussed with ACI's new
26 attorney Gary Plotkin ("Plotkin"), whether she would stipulate to set aside the
27 default she had obtained against ACI. They also discussed whether Respondent

1 and ACI could to resolve the fee dispute matter through binding arbitration, and
2 that in the event she prevailed at the arbitration, ACI's money being held in trust
3 could be used to satisfy any award in favor of Respondent. Preliminarily,
4 Plotkin believed they had a tentative agreement to do both of these things, and he
5 wrote to Respondent on October 17, 2000, confirming their agreement.

6 19. However, also on October 17, 2000, but before Plotkin's letter was
7 sent, Respondent left a message for Plotkin, telling him she would have to
8 review his declaration and motion prior to entering any agreement regarding her
9 claims. On October 25, 2000, Respondent provided a thorough written response
10 to Plotkin, among other things claiming that binding arbitration was
11 inappropriate because the binding arbitration from her own written fee
12 agreement was void under California law, and indicating she would not stipulate
13 to set aside the default she had obtained against ACI. Respondent did agree that
14 she would transfer the funds she was holding in trust for ACI to any other person
15 upon receiving written authority from George and Hollingsworth, and that she
16 could have the money ready to turn over by Friday, October 27, 2000.

17 20. On November 15, 2000, Plotkin provided Respondent with written
18 authorization from Hollingsworth and George to turn over the entrusted ACI
19 funds to Plotkin's lawfirm. He sent the letter by fax and mail. Respondent never
20 responded to this letter, and she states she never received it. On November 30,
21 2000, attorney Plotkin sent Respondent another letter to an alternate address
22 again enclosing authorization from George and Hollingsworth to turn over the
23 entrusted ACI funds. Respondent never responded to this letter, and states she
24 never received it. Again, on December 4, 2000, attorney Plotkin mailed and
25 faxed another letter to Respondent requesting the entrusted funds she was
26 holding on behalf of ACI be turned over to his firm, per his client's request.

27 21. On December 5, 2000, Respondent sent a letter to attorney Plotkin

1 stating that she had been advised by counsel not to turn over the funds, but to
2 interplead the money into the court instead of turning the money over as
3 requested by George and Hollingsworth. At no time thereafter, however, did
4 Respondent file an interpleader action. Moreover, she did not turn over any of
5 the funds until the court ultimately ordered her to do so.

6 22. On January 5, 2001, Plotkin filed a motion on behalf of ACI to
7 compel Respondent to turnover all of ACI's entrusted funds in her possession.
8 Respondent opposed ACI's motion, arguing that it was in reality a disguised
9 (untimely) motion to vacate the default judgment she had obtained against ACI.
10 She asked the court to allow her to instead keep the money involved in the fee
11 dispute and she would turn over the remainder to the court.

12 23. On March 6, 2001, the court entered an order compelling Respondent
13 to turn over all of ACI's funds to the court no later than March 13, 2001.

14 24. On June 18, 2001, the court granted ACI's motion to vacate the
15 default that Respondent had obtained against ACI and permitted Plotkin to file
16 an answer to the complaint in the attorneys fees action.

17 25. Despite requests that she turn over ACI's files to Plotkin's lawfirm
18 so that it could prepare for trial, Respondent failed to turn over ACI's files.
19 Consequently, in July 2001, Plotkin's firm filed a motion to compel respondent
20 to turn over ACI's files. The hearing on the motion was scheduled for August
21 14, 2001. While not dispositive, Respondent believed that there already were
22 two sets of files already in possession of Hollingsworth and George.

23 26. Respondent told Plotkin that she had located some of the ACI files
24 but that she was not sure she had located all of them. Respondent stated that she
25 would messenger the files the next day, August 14, 2001. Respondent did not
26 messenger the files to Rapoport on August 14, 2001 as promised. On August 14,
27 2001, the court issued an order compelling Respondent to turn over ACI's files

1 to Plotkin's firm by no later than August 28, 2001, which Respondent did.

2 27. On February 14, 2001, the State Bar opened an investigation in case
3 no. 01-O-00681 against Respondent based upon a complaint filed against her by
4 Hollingsworth. On April 5, 2001, Respondent wrote to Plotkin's partner
5 offering to settle the attorney fees action with ACI on the condition, among
6 others, that Hollingsworth and attorney Tshombe Sampson withdraw the
7 complaint they filed against her with the State Bar.

8 Conclusions of Law – case no. 01-O-00681 (ACI)

9 • By filing a complaint against ACI in the attorneys fees action when
10 she knew the filing of the lawsuit violated the express terms of her written fee
11 agreement with ACI and by claiming that the binding arbitration clause she had
12 included in the written fee agreement with ACI was illegal and therefore
13 unenforceable and a bar against use by her own clients against her, Respondent
14 committed acts involving moral turpitude, dishonesty or corruption in wilful
15 violation of Business and Professions Code, section 6106.

16 • By failing to turn over ACI's funds to its new counsel as requested,
17 Respondent failed to pay promptly as requested by a client, funds in
18 Respondent's possession which the client is entitled to receive, in wilful
19 violation of rule 4-100(B)(4) of the Rules of Professional Conduct.

20 • By not promptly turning over any and all files to Rapoport on behalf
21 of ACI, Respondent wilfully failed to release promptly, upon termination of
22 employment, to the client, at the request of the client, all papers and property, in
23 violation of rule 3-700(D)(1) of the Rules of Professional Conduct.

24 • By conditioning the settlement of the attorneys fees action with ACI
25 upon the withdrawing of a State Bar complaint that had been filed against her,
26 Respondent, while acting as a party or an attorney for a party, wilfully violated
27 Business and Professions Code, section 6090.5(a)(2), by agreeing or seeking

1 agreement that a party would withdraw a disciplinary complaint or would not
2 cooperate with the investigation or prosecution conducted by a disciplinary
3 agency.

4 • By filing suit against ACI for fees at a time when ACI was still a
5 client, Respondent wilfully breached a duty of loyalty owed to her client, a
6 disciplinable offense. (*Santa Clara v. Woodside* (1994) 7 cal.4th 525; see *In re*
7 *McCarthy* (Rev. Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364).

8 **Case no. 02-O-12999 (Birk)**

9 28. On March 27, 2001, John Birk ("Birk") was served with a summons
10 and complaint in a lawsuit filed by Jose Lopez ("Lopez") due to injuries
11 sustained in an alleged assault the previous year (the "personal injury lawsuit").

12 29. On April 4, 2001, Birk was also sued by Zenith Insurance Company
13 ("Zenith") wherein it sought to recoup worker's compensation benefits it paid to
14 Lopez as a result of the injuries complained of in the personal injury lawsuit (the
15 "intervention lawsuit").

16 30. In early April 2001 Birk hired Respondent. At the time Respondent
17 was hired Birk knew of only the personal injury lawsuit, and Respondent agreed
18 agreed to represent Birk. She requested that Birk send her copies of all
19 documents Birk had received, which he did.

20 31. On May 7, 2001, Birk mailed Respondent copies of the summons
21 and complaint in both the personal injury lawsuit and the intervention lawsuit.
22 Respondent's office received the letter and the documents. In the May 7, 2001
23 letter, Birk advised Respondent in writing that the documents had been found
24 under his door mat when he returned from being out of town. Birk also asked
25 Respondent to contact him. On April 16, 2001, however, Respondent underwent
26 an operation, developed complications therefrom and was out of the office until
27 approximately May 15, 2001. Therefore, she did not see the summons and

1 complaints when they first came in, and when she returned to the office she was
2 inundated with backlogged work.

3 32. Between May 7, 2001 and June 14, 2001, Respondent failed to file
4 answers to the two complaints on behalf of Birk, nor did she even notify
5 opposing counsel Kevin Yeam ("Yeam"), who represented Lopez, or opposing
6 counsel Ward Skinner ("Skinner"), who represented Zenith, that she would be
7 representing Birk.

8 33. On June 14, 2001, Birk received a Request for Entry of Default in
9 the mail indicating that his default had been entered in the personal injury
10 lawsuit on or about May 3, 2001. Birk immediately faxed the Request for Entry
11 of Default with a letter to Respondent requesting that Respondent contact him to
12 discuss the default. Respondent received the June 14, 2001, letter and the
13 Request for Entry of Default sent by her client. Respondent failed to respond to
14 the letter. Around the same time a default was entered in the intervention
15 lawsuit as well.

16 34. At no time between June 14, 2001, and October 4, 2001, did
17 Respondent take any action to get the default set aside.

18 35. On June 14, 2002, the court consolidated both lawsuits and
19 continued the default prove up hearing until August 30, 2001.

20 36. The default prove-up hearing in both lawsuits occurred on August
21 30, 2001. Lopez and Zenith obtained judgments as a result. On August 30, 2001,
22 the court entered a judgment in favor of Lopez in the amount of \$3,500.00 in
23 compensatory damages and \$25,000.00 in punitive damages and the court
24 entered judgment in favor of Zenith. On September 26, 2001, the court signed
25 and filed the judgment against Birk in the amount of \$28,500.00.

26 37. On October 4, 2001, Lopez served Birk by mail with the Notice of
27 Entry of Judgment in the amount of \$28,500.00. Birk immediately faxed the

1 Notice of Entry of Judgment to Respondent with a letter asking Respondent to
2 call him and explain to him why she failed to handle his case. Respondent
3 received the letter, but never directly provided Birk with an explanation. Later
4 in October 2001 Birk fired Respondent and had to retain new counsel, David
5 Behesnelian ("Behesnelian") to file a motion to set aside the default judgments
6 that had been entered against him.

7 38. On October 17, 2001, Behesnelian moved to set aside the default
8 judgments. Respondent submitted a supporting declaration admitting it was her
9 fault Birk's matters went by default, but claiming illness and the press of work
10 prevented her from performing.

11 39. On November 7, 2001, the court vacated both defaults and default
12 judgments that had been entered against Birk and the court set the matter for an
13 Order to Show Cause ("OSC") hearing on December 5, 2001 directing
14 Respondent to appear and show cause as to whether attorneys fees, costs and
15 sanctions should be awarded against Respondent.

16 40. On December 5, 2001, Respondent appeared at the OSC hearing.
17 Following the hearing, the court issued an order that Respondent pay reasonable
18 compensatory fees and costs to Lopez and Zenith and their respective attorneys
19 Yeam and Skinner. The court ordered Respondent to pay \$750.00 to Zenith and
20 \$3,350.00 to Lopez by no later than January 31, 2002. Respondent had actual
21 notice of the Court's December 5, 2001 order, but believed her bankruptcy filing
22 would stay the sanctions order.

23 41. Respondent did not comply with the court's order pay the
24 compensatory fees and costs to Lopez and Zenith by January 31, 2002. To date,
25 Respondent has not paid \$750.00 to Zenith and \$3,350.00 to Lopez.

26 Conclusions of Law – case no. 02-O-12999 (Birk)

- 27 • By failing to file answers to the complaints filed against Birk, by

1 failing to evaluate whether Birk had insurance coverage, by failing to contact
2 opposing counsel, by failing to discover the fact that the June 14 and August 14,
3 2001 hearings had been calendared, by failing to appear at the June 14 and
4 August 30, 2001 hearings, by failing to respond to requests for information by
5 her client, and by failing to move to set aside the default judgments, Respondent
6 intentionally failed to perform legal services with competence in violation of
7 Rules of Professional Conduct, rule 3-110(A).

8 • By failing to comply with the December 5, 2001 order to pay \$750.00
9 to Zenith and \$3,350.00 to Lopez by January 31, 2002, Respondent wilfully
10 disobeyed an order of the court requiring her to do or forbear an act connected
11 with or in the course of Respondent's profession which she ought in good faith
12 to do or forbear, in wilful violation of Business and Professions Code section
13 6103.

14 **Investigation nos. 01-O-4282 and 02-O-13575**

15 42. In August 1999 Respondent formed a law partnership with two other
16 attorneys, Rena Kreitenberg and Dennis Riley. The partnership lasted only five
17 months before Kreitenberg and Riley asked that the partnership end.
18 Subsequently Respondent filed suit for breach of contract, conversion and fraud,
19 among other causes of action. Defendants Kreitenberg and Riley cross-
20 complained, also alleging fraud among their charges.

21 43. The matter went to trial in November 2001, and was tried before a
22 jury. The trial lasted ten days. On day three Respondent's counsel ceased
23 representing her, leaving her to represent herself for the remainder of the trial.
24 At conclusion of trial the jury found against Respondent on all her claims.

25 44. With respect to a Fraud counterclaim brought by defendants
26 Kreitenberg and Riley, however, the jury found, by clear and convincing
27 evidence, that Respondent was "guilty of oppression, fraud or malice upon which

1 [the jury made its] findings of liability on the causes of action for Fraud so as to
2 warrant punitive damages[.]” The Fraud claim had been based in large part on
3 Respondent’s misrepresentations that she would be able to bring in a certain
4 amount of billings each month into the partnership from existing clients.

5 45. Respondent did not report the entry of judgment as to fraud to the
6 State Bar within thirty days of having notice thereof.

7 46. Respondent appealed the jury’s decision to the Court of Appeal of
8 the State of California, which issued its decision in May 2004. Respondent
9 argued many issues on appeal, among them, that the entire judgment was
10 reversible error in that she was denied the right to fair trial, especially the right to
11 present any evidence to the counterclaimants’ case. The Court of Appeal denied
12 her appeal as to this issue, based largely on procedural grounds of failing to
13 timely object below and failing to adequately brief the issue on appeal.

14 47. Significantly, however, the Court of Appeal affirmed the fraud
15 finding against Respondent based on substantive grounds, and it specifically
16 found substantial evidence to support the jury’s finding of fraud by clear and
17 convincing evidence.

18 48. Civil findings by clear and convincing evidence are conclusive with
19 respect to State Bar Court proceedings (*In re Applicant A* (1995) 3 Cal. State Bar
20 Ct. Rptr. 318).

21 Conclusions of law – case nos. 01-O-4282 & 02-O-13575

22 ● By defrauding her former law partners, Respondent committed an act
23 involving moral turpitude, dishonesty or corruption, in wilful violation of
24 Business and Professions Code, section 6106.

25 ● By failing to report to the State Bar, within thirty days of having
26 knowledge thereof, the entry of judgment as to the fraud charge, Respondent
27 wilfully violated Business and Professions Code, section 6068(o)(2).

1 **III. DISMISSALS**

2 The parties respectfully request the court dismiss the following counts, in
3 the interest of justice:

4 Case no. 01-O-00681

5 Count Two: Acquiring Interest Adverse to Client
6 Count Six: Failure to Maintain Complete Records and/or Render
Accounting

7 Case no. 02-O-12999

8 Count Seven: Failure to Keep Client Informed of Significant
Development
9 Count Ten: Failure to Report a Reversal of Judgment Based on Attorney
Misconduct
10

11 **IV. COMPLIANCE WITH COURT ORDER**

12 As a condition of probation, Respondent agrees to fulfill requirements of
13 the following orders, outlined in case 02-O-12999 above:

14 (1) Order of Ventura County Superior Court dated , case no. SC
15 028644/SC028450, *Jose Felix Lopez v. John Anthony Birk*, that, *inter alia*,
16 Respondent pay \$3350.00 to Jose Felix Lopez, and \$750.00 to Zenith Insurance
17 Co. for fees and costs incurred with respect to the default motion (or as
18 subsequently modified with approval by parties and the court).

19 (2) Order of Ventura County Superior Court dated , case no. SC
20 028644/SC028450, *Jose Felix Lopez v. John Anthony Birk*, that, *inter alia*,
21 Respondent pay \$1171.00 to Jose Felix Lopez for fees and costs incurred with
22 respect to compelling post-judgment discovery (or as subsequently modified
23 with approval by parties and the court).

24 //

25 //

26 //

27 //

1 **VI. RULE 133(12) NOTIFICATION OF PENDING MATTERS**

2 Respondent was notified by writing date December _____, 2004, of any
3 matters not included in this stipulation.

4 /// End of Attachment ////

(Do not write above this line.)

In the Matter of PAMELA A. MOZER	Case number(s): 01 O 000681 RAH
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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 stipulation as to facts and conclusions of law is APPROVED.
- ☒ The stipulation as to facts and conclusions of law is APPROVED AS MODIFIED as set forth below.
- ☐ All Hearing dates are vacated.

Section IV "Compliance with Court Order," above, is replaced with:

As a condition of probation, Respondent shall fulfill all orders of the Ventura County Superior Court in Lopez v. Birk, case no. SC028644/SC028450, except as may be excused or modified by order of the U.S. Bankruptcy Court. Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent shall provide the State Bar's Office of Probation with copies of all orders of the Ventura County Superior Court in Lopez v. Birk. Respondent shall provide satisfactory proof to the Office of Probation of her fulfillment of these orders or proof that any such orders were excused or modified by order of the U.S. Bankruptcy Court.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation; or 3) Respondent is not accepted for participation in the Program or does not sign the Program Contract. (See rule 135(b) and 802(d), Rules of Procedure.)

5/18/05
Date



RICHARD A. HONN
Judge of the State Bar Court

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

I am a Case Administrator of the State Bar Court 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 July 19, 2005, I deposited a true copy of the following document(s):

STIPULATION RE FACTS AND CONCLUSIONS OF LAW;

**CONTRACT AND WAIVER FOR PARTICIPATION IN THE STATE BAR COURT'S
ALTERNATIVE DISCIPLINE PROGRAM, both lodged July 15, 2005**

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

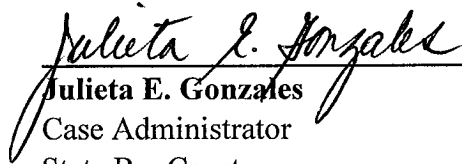
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**JOANNE E ROBBINS ATTORNEY AT LAW
KARPMAN & ASSOCIATES
9200 SUNSET BLVD PH #7
LOS ANGELES CA 90069**

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

Brooke Schafer, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **July 19, 2005**.



Julieta E. Gonzales
Case Administrator
State Bar Court

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

I am a Case Administrator of the State Bar Court 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 February 4, 2008, I deposited a true copy of the following document(s):

**DECISION AND ORDER FILING AND SEALING CERTAIN DOCUMENTS
AND STIPULATION RE FACTS AND CONCLUSIONS OF LAW**

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:

**PAMELA A. MOZER ATTORNEY AT LAW
LAW OFC PAMELA MOZER
2662 LACY ST
LOS ANGELES, CA 90031**

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

David T. Sauber, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **February 4, 2008**.



Charles Nettles
Case Administrator
State Bar Court