

**STATE BAR COURT OF CALIFORNIA**  
**HEARING DEPARTMENT - LOS ANGELES**

In the Matter of	)	<b>Case No. 02-H-14462; 02-O-10538;</b>
	)	<b>02-O-11039; 05-O-04056;</b>
<b>RENAY GRACE RODRIGUEZ,</b>	)	<b>06-O-10228;</b>
	)	<b>01-O-04010 (Inv.);</b>
<b>Member No. 196657,</b>	)	<b>02-O-13170 (Inv.);</b>
	)	<b>03-O-00674 (Inv.);</b>
A Member of the State Bar.	)	<b>03-O-00740 (Inv.)</b>
	)	
	)	
	)	<b>DECISION AND ORDER FILING AND</b>
	)	<b>SEALING CERTAIN DOCUMENTS</b>

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**INTRODUCTION**

This disciplinary proceeding arises out of misconduct by respondent Renay Grace Rodriguez (“respondent”) involving eight client matters and one non-client matter.

After respondent reached a stipulation as to facts and conclusions of law with the Office of the Chief Trial Counsel of the State Bar of California (“State Bar”), which was approved by the court, and executed a Contact and Waiver for Participation in the State Bar Court’s Pilot Program for Respondents with Substance Abuse or Mental Health Issues, the court accepted respondent as a participant in the State Bar Court’s Alternative Discipline Program (“ADP”).<sup>1</sup>

As set forth below, the court finds that respondent has successfully completed the ADP. Accordingly, pursuant to rule 803 of the Rules of Procedure of the State Bar of

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<sup>1</sup>The ADP was formerly known as the State Bar Court’s Pilot Program for Respondents with Substance Abuse or Mental Health Issues (“Pilot Program”). The court will use ADP throughout this decision to refer to this program.

California (“Rules of Procedure”), the court hereby recommends that respondent be suspended from the practice of law for a period of three years, that execution of such suspension be stayed, and that respondent be placed on probation for a period of five years on certain conditions including that she be actually suspended from the practice of law for the first 90 days of the period of her probation.

### **SIGNIFICANT PROCEDURAL HISTORY**

In or about October 2002, respondent contacted the State Bar’s Lawyer Assistance Program (“LAP”) for assistance with her mental health issues and signed an evaluation agreement with the LAP.

On October 31, 2002, the State Bar filed a Notice of Disciplinary Charges (“NDC”) against respondent in State Bar Court Case No. 02-H-14462. Respondent filed her response to the NDC in this matter on December 4, 2002.

On December 31, 2002, the State Bar filed a NDC against respondent in State Bar Court Case Nos. 02-O-10538 and 02-O-11039. Respondent filed her response to the NDC in this matter on January 14, 2003.<sup>2</sup>

On April 8, 2003, respondent signed a Participation Agreement with the LAP.

At a status conference held on August 13, 2003, the Honorable Robert M. Talcott referred this consolidated matter to the ADP.

In August 2003, the parties entered into an ADP Stipulation Re Facts and Conclusions of Law.

On September 2, 2003, respondent submitted a declaration establishing a nexus between her mental health issues and her misconduct in this matter.

On September 4, 2003, the parties filed a joint brief on the issue of discipline, and on September 12, 2003, the parties filed joint amendments to their joint brief on the issue of discipline.

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<sup>2</sup>Case No. 02-H-14462 was consolidated with Case No. 02-O-10538; 02-O-11039.

On November 12, 2003, respondent executed a Contract and Waiver for Participation in the State Bar Court's ADP, and respondent was accepted for participation in the ADP on said date.

On December 12, 2003, the court lodged its Decision Re Alternative Recommendations for Degree of Discipline in this matter.

On December 12, 2003, the parties' Stipulation Re Facts and Conclusions of Law was lodged with the court. The Contract and Waiver for Participation in the State Bar Court's ADP was also lodged with the court on this date.

On July 28, 2006, the State Bar filed a NDC against respondent in State Bar Court Case No. 05-O-04056; 06-O-10228. Respondent filed her response to the NDC in this matter on October 3, 2006.

On October 10, 2006, the parties filed an addendum to their Stipulation Re Facts and Conclusions of Law.

At a status conference held on October 11, 2006, the court consolidated Case Nos. 05-O-04056; 06-O-10228 with Case No. 02-H-14462. The court also found that respondent had successfully completed the ADP and indicated that it would prepare its decision and recommendation regarding the lower level of discipline set forth by the court in its Decision Re Alternative Recommendations for Degree of Discipline lodged on December 12, 2003. The court also ordered a one year certificate of compliance from the LAP.

On October 18, 2006, the LAP issued a Certificate of One Year Participation in the Lawyer Assistance Program certifying that respondent had complied with all drug testing requirements set forth in her LAP Participation Agreement/Plan for at least one year prior to October 18, 2006, and that during this time period, no unauthorized substances were detected, and the LAP was not aware of the use of any unauthorized substances during this period.

On December 18, 2006, the LAP issued a Certificate of One Year Participation in the Lawyer Assistance Program certifying that respondent complied with the requirements set forth in the LAP Participation Agreement/Plan for at least one year prior to December 18, 2006, and that during this time period, respondent had maintained mental health and stability and was participating successfully in the LAP.

Thereafter, this matter was submitted for decision on January 11, 2007, based on respondent's successful completion of the ADP.

### **FACTS AND CONCLUSIONS OF LAW**

The Stipulation Re Facts and Conclusions of Law, approved by the court on November 26, 2003, is incorporated by reference as if set forth fully herein.

#### **A. Jurisdiction**

Respondent was admitted to the practice of law in California on October 14, 1998, and has been a member of the State Bar of California at all times since that date.

#### **B. State Bar Court Case No. 02-H-14462**

Effective April 1, 2002, respondent was publicly reprovved by the State Bar Court pursuant to a Stipulation Re Facts, Conclusions of Law and Disposition entered into by the parties in State Bar Court Case Nos. 01-O-00923, 01-O-01366 and 01-O-04423. Among other things, the conditions attached to respondent's stipulated public reprovall required her to file written quarterly reports with the State Bar's Probation Unit, commencing on April 10, 2002.

Despite respondent's receipt of a letter from the Probation Unit, dated March 22, 2002, reminding her of the conditions attached to her reprovall, respondent failed to timely submit the quarterly report that was due on April 10, 2002. Respondent submitted that report on May 24, 2002. Thereafter, respondent failed to timely file the quarterly report that was due on July 10, 2002, submitting that report on October 28, 2002.

Respondent's willful failure to comply with the conditions attached to her public reproof constitutes a violation of Business and Professions Code section 6103.<sup>3</sup>

**C. State Bar Court Case No. 02-O-10538**

In June 2001, respondent allowed three settlement checks received on behalf of her clients Elsa Torres, Alex Gramajo and Elmer Lopez to be deposited into her firm's general operating account rather than into her client trust account and thereafter failed to maintain sufficient funds in the account for the payment of a medical lien in favor of Dr. Sharon Bai against the settlement funds. In so doing, she willfully violated rule 4-100(A) of the Rules of Professional Conduct. Respondent also failed to satisfy Dr. Bai's medical lien until December 2002, even though she had received the settlement funds in June 2001, and thereby willfully violated rule 4-100(B)(4) of the Rules of Professional Conduct.<sup>4</sup>

**D. State Bar Court Case No. 02-O-11039**

Respondent allowed a member of her staff to deposit a settlement check received on behalf of her client, Ann Nguyen Do, into her firm's general operating account and failed to maintain sufficient funds in the account for the payment to Do of her share of the settlement proceeds. In so doing, respondent willfully violated rule 4-100(A) of the Rules of Professional Conduct.

Respondent also failed to pay Do's share of the settlement proceeds to her until May 2002, seven months after Do sent respondent a written demand for her share of the

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<sup>3</sup>Although originally also charged with willfully violating rule 1-110 of the Rules of Professional Conduct of the State Bar of California ("Rules of Professional Conduct"), the parties stipulated to the dismissal of this charge. The court approves the dismissal of this charge with prejudice.

<sup>4</sup>Although originally also charged with violating section 6106 of the Business and Professions Code, the parties stipulated to the dismissal of this charge. The court approves the dismissal of this charge with prejudice.

proceeds and ten months after respondent had received the settlement funds. In so doing, respondent willfully violated rule 4-100(B)(4) of the Rules of Professional Conduct.<sup>5</sup>

**E. State Bar Court Case No. 01-O-04010 (Investigation Matter)**

Respondent allowed a member of her staff to deposit settlement checks received on behalf of her clients, Jose Hernandez and Leslie Rodriguez-Hernandez, into her firm's general operating account. In so doing, respondent willfully violated rule 4-100(A) of the Rules of Professional Conduct.

In addition, respondent failed to pay either Jose Hernandez, Leslie Rodriguez-Hernandez or a third client, Edith Rodriguez, any share of their settlement proceeds from their cases, from August 2001 and continuing to at least November 26, 2003, thereby willfully violating rule 4-100(B)(4) of the Rules of Professional Conduct.

Respondent also closed her law practice in or about March 2002 and reduced the balance in her client trust account to \$50 when she was still required to maintain at least \$2,266 in trust on behalf of Jose Hernandez, \$2,333 in trust on behalf of Leslie Rodriguez-Hernandez and \$2,000 in trust on behalf of Edith Rodriguez. In so doing, respondent willfully violated rule 4-100(A) of the Rules of Professional Conduct.

**F. State Bar Court Case No. 02-O-13170 (Investigation Matter)**

Respondent failed to maintain sufficient funds in her client trust account for the payment of third party lien holders on behalf of her clients, Alex Rose, George Rodriguez and Jesse Rodriguez. Although respondent was required to hold \$6,174.33 of the settlement proceeds for the payment of lien holders when she distributed the clients' share of the proceeds in February 2002, within two weeks, the balance in her trust account contained \$1,828.15 less than the amount that should have been retained for

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<sup>5</sup>Although originally also charged with violating section 6106 of the Business and Professions Code for the alleged misappropriation of Do's share of the settlement proceeds, the parties stipulated to the dismissal of this charge. The court approves the dismissal of this charge with prejudice.

payment of the lien holders. By engaging in such conduct, respondent willfully violated rule 4-100(A) of the Rules of Professional Conduct.

**G. State Bar Court Case No. 03-O-00674 (Investigation Matter)**

Respondent allowed her staff to deposit settlement checks into her firm's general operating account. In particular, respondent allowed her staff to deposit settlement checks received on behalf of her clients, Rochelle Concepcion and Esther Barbosa, into her general operating account. In so doing, respondent willfully violated rule 4-100(A) of the Rules of Professional Conduct.

**H. State Bar Court Case No. 03-O-00740 (Investigation Matter)**

Respondent failed to pay, on behalf of her client, Marlon Jiminez, a medical lien in favor of Total Care Medical Center in the amount of \$1,726.44, despite the fact that she withheld funds from the settlement of Jiminez's matter for that purpose. At least as of November 26, 2003, respondent had not paid the Total Care Health Center's medical bill. By such conduct, respondent willfully violated rule 4-100(B)(4) of the Rules of Professional Conduct.

**I. State Bar Court Case No. 05-O-04056**

Respondent was hired by Maria Ramirez to represent her in a personal injury claim. On March 6, 2001, respondent filed a complaint on Ramirez's behalf in Los Angeles County Superior Court entitled *Maria Ramirez v. Vladamir Spolsky, et al.*, Case No. 01 K 03793. Thereafter, respondent failed to attend any court hearings in Ramirez's case and failed to take any action to prosecute the lawsuit, ultimately resulting in the defendants being dismissed from the lawsuit. Specifically, respondent failed to: (1) appear at the case management conference and subsequent order to show cause hearings; (2) appear for Ramirez's deposition; (3) oppose the motions to compel Ramirez's deposition; (4) appear at the hearing on the series of discovery motions to compel Ramirez's deposition; (5) oppose a motion for terminating sanctions; (6) appear at the hearing on the motion for terminating sanctions; and (7) take any actions to reinstate the

*Spolsky* action after the dismissals. In so doing, respondent intentionally, recklessly or repeatedly failed to perform legal services with competence in wilful violation of rule 3-110(A) of the Rules of Professional Conduct. Respondent also failed to notify Ramirez of her deposition, the motions concerning her deposition, the motion for terminating sanctions and the order of dismissal. By such conduct, respondent willfully violated Business and Professions Code section 6068, subdivision (m).

Respondent also withdrew from employment without taking reasonable steps to avoid foreseeable prejudice to the rights of her client by failing to: (1) take any action on Ramirez's behalf in her matter after the filing of the complaint; (2) notify Ramirez of her decision to stop work on her behalf; and (3) take any action to avoid reasonably foreseeable prejudice to Ramirez. By such conduct, respondent willfully violated rule 3-700(A)(2) of the Rules of Professional Conduct.

**J. State Bar Court Case No. 06-O-10228**

On or about November 8, 2000, Alfredo Flores and Alexander Bedoshvili employed respondent to represent them regarding a bicycle-car accident. After March 30, 2001, however, respondent failed to: (1) undertake any work on behalf of Flores and Bedoshvili; (2) maintain contact with her clients; (3) inform Flores and Bedoshvili of her address change; and (4) failed to return property to her clients. In so doing, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct.

Respondent also failed to notify Flores and Bedoshvili: (1) when she allegedly became ill; (2) when she moved her office; and (3) that she would no longer be performing legal services on their case, and failed to keep Flores and Bedoshvili reasonably informed of significant developments in their case, thereby willfully violating Business and Professions Code section 6068, subdivision (m).

In addition to failing to take any action on behalf of Flores and Bedoshvili after March 30, 2001, respondent failed to notify Flores and Bedoshvili of her decision to stop



work on their behalf and failed to take any actions to avoid reasonably foreseeable prejudice to Flores and Bedoshvili. In so doing, respondent withdrew from employment prior to taking reasonable steps to avoid foreseeable prejudice to the rights of a client in willful violation of rule 3-700(A)(2) of the Rules of Professional Conduct.

### **AGGRAVATION AND MITIGATION**

#### **Aggravating Circumstances**

Respondent has a record of one prior imposition of discipline. (Rules Proc. of State Bar, tit. IV, Stds. For Atty. Sanctions for Prof. Misconduct, standard 1.2(b)(i) (“standard”).) Effective April 1, 2002, respondent received a public reproof in Case Nos. 01-O-00923, 01-O-01366 and 01-O-04423, and was ordered to comply with specified conditions attached to the reproof. In this prior proceeding, respondent stipulated to her culpability of issuing seven checks drawn on her client trust account between October 4, 2000, and August 27, 2001, that were returned due to insufficient funds in willful violation of rule 4-100(A) of the Rules of Professional Conduct.

The parties stipulated that the current disciplinary proceedings involved trust funds and respondent either refused or has been unable to account to her clients or others for her improper conduct towards those trust funds. (Standard 1.2(b)(iii).)

Additionally, the parties stipulated that respondent’s misconduct significantly harmed her clients, the public or the administration of justice. (Standard 1.2(b)(iv).) In particular, the court concludes that respondent’s misconduct significantly harmed her clients Ann Nguyen Do, Jose Hernandez, Leslie Rodriguez-Hernandez, Edith Rodriguez, and medical lien holders Dr. Sharon Bai and Total Medical Care Center.

Finally, the parties stipulated that respondent’s current misconduct evidences multiple acts of wrongdoing. (Standard 1.2(b)(ii).)

#### **Mitigating Circumstances**

In mitigation, the parties have stipulated that respondent has displayed spontaneous candor and cooperation to the State Bar during the disciplinary investigation

and proceeding in this matter. (Standard 1.2(e)(v).)

As an additional mitigating factor, the parties have stipulated that, at the time of the stipulated acts of misconduct, respondent suffered from mental health issues. Along with physical health problems, these difficulties resulted in respondent's prolonged absences from her office. Some of respondent's health problems were improperly diagnosed, while others were under-treated or, occasionally, untreated. In addition, respondent was required to be hospitalized on a few occasions. By December 2001, respondent's emotional and physical health problems became so severe that she was compelled to close her law practice and stop accepting new clients.

Expert testimony would establish that the mental health issues respondent was suffering from at the time of her misconduct were directly responsible for the misconduct in this matter. Furthermore, respondent has established through clear and convincing evidence that she no longer suffers from such difficulties. (Standard 1.2(e)(iv).)

Respondent's declaration establishes that, at the time of her misconduct, respondent was suffering from mental health issues. In addition, respondent's declaration and the stipulated facts also establish a causal connection between respondent's mental health issues and the misconduct found in this disciplinary proceeding. The court therefore finds that respondent has adequately established a nexus between her mental health issues and her misconduct in this matter, i.e., that her mental health issues directly caused the misconduct set forth in this matter.

Furthermore, respondent sought assistance from the LAP in or about October 2002 for assistance with her mental health issues and signed an evaluation agreement with the LAP. Respondent complied with the LAP's conditions and requests for evaluation and, at the conclusion of the LAP evaluation period, respondent signed a long-term participation agreement with the LAP on April 8, 2003. Since entering into the LAP, respondent has maintained compliance with the terms and conditions of her participation agreement/plan.

Pursuant to rule 804 of the Rules of Procedure, on October 18, 2006, the LAP issued a Certificate of One Year Participation in the Lawyer Assistance Program certifying that respondent had complied with all drug testing requirements set forth in her LAP Participation Agreement/Plan for at least one year prior to October 18, 2006, and that during this time period, no unauthorized substances were detected, and the LAP was not aware of the use of any unauthorized substances during this period. Furthermore, on December 18, 2006, the LAP issued a Certificate of One Year Participation in the Lawyer Assistance Program certifying that respondent complied with the requirements set forth in the LAP Participation Agreement/Plan for at least one year prior to December 18, 2006, and that during this time period, respondent has maintained mental health and stability and was participating successfully in the LAP.

In addition to participating in the LAP, respondent was accepted into the court's ADP effective November 12, 2003. Respondent's participation in the ADP allowed the court to monitor respondent's progress in the LAP and her overall efforts at addressing the problems that led to her misconduct. Since her acceptance in the ADP, respondent has complied with all the terms and conditions of the program. Accordingly, based upon respondent's dedication to her mental health and emotional stability and to the ADP and the LAP, the court found in October 2006 that respondent had successfully completed the ADP.

Respondent is entitled to significant mitigating credit for her participation in the LAP and her successful completion of the court's ADP.

### **DISCUSSION**

The purpose of State Bar disciplinary proceedings is not to punish the attorney, but to protect the public, to preserve public confidence in the profession and to maintain the highest possible professional standards for attorneys. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111.)

Standard 2.2(b) provides that culpability of a member of a violation of rule 4-100 of the Rules of Professional Conduct that does not result in the willful misappropriation of entrusted funds or property must result in an actual suspension of at least three months, irrespective of mitigating circumstances.

Standard 2.6 provides that culpability of a member of a violation of, among other things, Business and Professions Code section 6103 must result in disbarment or suspension depending upon the gravity of the offense or the harm, if any, to the victim. Respondent has been found culpable of failing to comply with the conditions attached to her earlier public reproof as ordered by the State Bar Court.

Standard 2.4(b) provides that a member's culpability of failing to perform services in matters not demonstrating a pattern of misconduct or a member's wilful failure to communicate with a client must result in suspension or reproof, depending upon the extent of the misconduct and the degree of client harm. Respondent admitted that she intentionally, recklessly or repeatedly failed to perform legal services with competence in the Ramirez matter and on behalf of Flores and Bedoshvili, and that she failed to keep Ramirez informed of significant events in the *Spolsky* action and failed to keep Flores and Bedoshvili reasonably informed of significant developments in their case.

Finally, standard 2.10 provides that culpability of a member of a violation of, among other things, any Rule of Professional Conduct not specified in the standards must result in reproof or suspension according to the gravity of the offense or the harm, if any, to the victim with due regard to the purposes of imposing discipline. Respondent admitted that she willfully violated rule 3-700(A)(2) of the Rules of Professional Misconduct by withdrawing from employment in the Ramirez matter and on behalf of Flores and Bedoshvili without taking reasonable steps to avoid foreseeable prejudice to the rights of her clients.

Standard 1.6(a) states, in pertinent part, “If two or more acts of professional misconduct are found or acknowledged in a single disciplinary proceeding, and different sanctions are prescribed by these standards for said acts, the sanction imposed shall be the more or most severe of the different applicable sanctions.”

Standard 1.6(b) provides that the specific discipline for the particular violation found must be balanced with any mitigating or aggravating circumstances, with due regard for the purposes of imposing disciplinary sanctions.

Standard 1.7(a) provides that if a member is found culpable of misconduct in any proceeding and the member has a record of one prior imposition of discipline, the degree of discipline imposed in the current proceeding must be greater than that imposed in the prior proceeding unless the prior discipline was remote in time and the offense was minimal in severity.

The standards, however, are only guidelines and do not mandate the discipline to be imposed. (*In the Matter of Moriarty* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 245, 250-251.) “[E]ach case must be resolved on its own particular facts and not by application of rigid standards.” (*Id.* at p. 251.)

Respondent’s misconduct in this matter occurred contemporaneously with the misconduct found in respondent’s prior disciplinary matter. Thus, in determining the appropriate discipline to recommend in this proceeding, it is appropriate to consider the totality of the findings in both this matter and in respondent’s prior disciplinary matter, to determine what the discipline would have been if the charged misconduct had all been brought in one proceeding. (*In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602, 619.)

The parties filed a joint brief regarding the level of discipline that they recommend be imposed in this proceeding, as well as joint amendments to that discipline brief. The parties jointly recommended, inter alia, a 90-day period of actual suspension in this matter if respondent successfully completes the ADP. The parties agree that

respondent's misconduct in the current proceeding was not due to intentional dishonesty or venality and that she displayed candor, cooperation and remorse throughout these proceedings.

At the time respondent engaged in her misconduct, she was suffering from mental health issues, and respondent's mental health issues directly caused the misconduct in this proceeding. Supreme Court and Review Department case law establish that extreme emotional difficulties are a mitigating factor where expert testimony establishes that those emotional difficulties were directly responsible for the misconduct, provided that the attorney has also established, by clear and convincing evidence, that she no longer suffers from such difficulties. (*Porter v. State Bar* (1990) 52 Cal.3d 518, 527; *In re Naney* (1990) 51 Cal.3d 186, 197; *In re Lamb* (1989) 49 Cal.3d 239, 246; *In the Matter Frazier* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676, 701-702.)

However, the Supreme Court has also held that, absent a finding of rehabilitation, emotional problems are not considered a mitigating factor. (*Kaplan v. State Bar* (1991) 52 Cal.3d 1067, 1072-1073; *In re Naney, supra*, 51 Cal.3d at p. 197.)

Respondent has been participating in the LAP since 2003 and has successfully completed the ADP. Respondent's successful completion of the ADP, which required her compliance with all terms and conditions set forth by the LAP, as well as the certificate from her LAP Case Manager pursuant to rule 804 of the Rules of Procedure certifying that for at least one year prior to December 18, 2006, respondent has complied with the requirements set forth in her LAP Participation Agreement/Plan and that during this time period, respondent has maintained mental health and stability and is participating successfully in the LAP, qualify as clear and convincing evidence that she no longer suffers from the mental health issues which led to her misconduct.

Therefore, upon consideration of the Standards for Attorney Sanctions for Professional Misconduct and the joint recommendation of the parties, the court concludes that the discipline recommendation set forth below is appropriate in this matter.

### **RECOMMENDED DISCIPLINE**

**IT IS HEREBY RECOMMENDED** that respondent **RENAY GRACE RODRIGUEZ** be suspended from the practice of law for a period of three years, that execution of such suspension be stayed, and that respondent be placed on probation for a period of five years on the following conditions:

1. Respondent must be suspended from the practice of law for the first 90 days of the period of probation;
2. No later than September 30, 2008, respondent must pay restitution to the following individuals and must provide satisfactory proof of such restitution to the State Bar's Office of Probation; (a) Jose Hernandez in the amount of \$2,166.00 plus 10% interest per annum from August 1, 2001, until paid; (b) Edith Hernandez in the amount of \$2,000.00 plus 10% interest per annum from August 1, 2001, until paid; (c) Leslie Rodriguez-Hernandez in the amount of \$2,333.00, plus 10% interest per annum from August 1, 2001, until paid; and (d) Marlon Jiminez in the amount of \$1,726.44, plus 10% interest per annum from February 1, 2003, until paid. Respondent must make restitution to the above-named individuals or to the Client Security Fund, to the extent of any payment from the fund to Jose Hernandez, Edith Hernandez, Leslie Rodriguez-Hernandez and/or Marlon Jiminez, plus interest and costs, in accordance with Business and Professions Code section 6140.5. Any restitution to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivision (c) and (d).
3. During the period of her probation, respondent must pay the \$473.00 in sanctions and satisfy any other outstanding sanction orders imposed in the *Spolsky* action, or reimburse Maria Ramirez to the extent the client paid any of these sanctions and provide proof of such payment to the State Bar's Office of Probation, unless

respondent has provided such proof prior to the effective date of the Supreme Court's final disciplinary order in this matter.

4. During the period of probation, respondent must comply with the provisions of the State Bar Act and the Rules of Professional Conduct;
5. Within 10 days of any change in the information required to be maintained on the membership records of the State Bar pursuant to Business and Professions Code section 6002.1, subdivision (a), including her current office address and telephone number, respondent must report such change of information in writing to the Membership Records Office of the State Bar and to the Office of Probation;
6. Respondent must comply with all provisions and conditions of her Participation Agreement/Plan with the Lawyer Assistance Program ("LAP") and must provide an appropriate written waiver authorizing the LAP to provide the Office of Probation and this court with information regarding the terms and conditions of respondent's participation in the LAP and her compliance or non-compliance with LAP requirements. Revocation of the written waiver for release of LAP information is a violation of this condition;
7. Respondent must submit written quarterly probation reports to the Office of Probation on each January 10, April 10, July 10 and October 10 of the period during which these probation conditions are in effect. Under penalty of perjury, respondent must state whether she has complied with the State Bar Act, the Rules of Professional Conduct and all of the probation conditions set forth in this Decision during the preceding calendar quarter. If the first report will cover a period of less than 30 days, that report must be submitted on the reporting due date for the next calendar quarter and must cover the extended period. In addition to all quarterly reports, respondent must submit a final report, containing the same information required by the quarterly reports. The final report must be submitted



- no earlier than 20 days before the last day of the period during which these probation conditions apply and no later than the last day of said period;
8. Subject to the assertion of applicable privileges, respondent must fully, promptly and truthfully answer any inquiries which are directed to her by the Office of Probation either personally or in writing, relating to whether respondent is complying or has complied with these probation conditions;
  9. The period during which these probation conditions apply will commence on the effective date of the final order of the Supreme Court imposing discipline in this proceeding;
  10. At the expiration of the period of probation, if respondent has complied with the terms and conditions of probation, the Order of the Supreme Court suspending respondent from the practice of law for a period of three years will be satisfied and that suspension will be terminated.

This Court does not recommend that respondent be required to take and pass the Multistate Professional Responsibility Examination (“MPRE”), administered by the National Conference of Bar Examiners, because she attended and successfully completed State Bar Ethics School on May 8, 2003.

The Court recommends that respondent be ordered to comply with the requirements of rule 9.20 (formerly rule 955) of the California Rules of Court, and that she be ordered to perform the acts specified in subdivision (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court’s final disciplinary order in this proceeding.

The Court further recommends that 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.

**ORDER**

The court orders the Clerk's Office to file the parties' Stipulation Re Facts and Conclusions of Law, as well as this Decision and Order Filing and Sealing Certain Documents. Thereafter, pursuant to rule 806(c) of the Rules of Procedure, all other documents not previously filed in this matter will be sealed pursuant to rule 23 of the Rules of Procedure.

Dated: February \_\_, 2007

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RICHARD A. HONN  
Supervising Judge of the State Bar Court