



<b>Counsel for the State Bar</b> Mark Hartman, No. 114923 THE STATE BAR OF CALIFORNIA 180 Howard Street San Francisco, CA 94105  Phone: (415) 538-2558	<b>Case number(s)</b>  02-0-10906  <div style="text-align: center;"> <small>kwiktag®</small>      031 975 353   </div>	(for Court's use)  <div style="text-align: center; border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> <b>PUBLIC MATTER</b> </div>  <div style="text-align: center;">   <b>FILED</b>  NOV 25 2003  STATE BAR COURT CLERK'S OFFICE  SAN FRANCISCO </div>
<b>Counsel for Respondent</b> Judith Anne Finch, No. 114851 3200A Danville Blvd, Ste. 101 Alamo, CA 94507  Phone: (925) 552-9690 IN PROPRIA PERSONA	Submitted to <input checked="" type="checkbox"/> assigned judge <input type="checkbox"/> settlement judge  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  ACTUAL SUSPENSION  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
<b>In the Matter of</b> JUDITH ANNE FINCH  Bar #      114851 A Member of the State Bar of California (Respondent)		

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted December 3, 1984  
(date)
- (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 and order consist of 8 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. (Check one option only):
  - until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
  - costs to be paid in equal amounts prior to February 1 for the following membership years:  


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(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
    - costs waived in part as set forth under "Partial Waiver of Costs"
    - costs entirely waived

**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 of this stipulation under specific headings, i.e. "Facts," "Dismissals," "Conclusions of Law."**

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 97-0-11894

(b)  date prior discipline effective August 16, 2000

(c)  Rules of Professional Conduct/ State Bar Act violations: one violation of former rule 5-101 and two violations of current rule 3-300.

(d)  degree of prior discipline 2 years stayed suspension; 2 year probation; actual suspension for 60 days and until satisfaction of a judgment.

(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 victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7)  <sup>Acts</sup> 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:

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 coupled with present misconduct which is not deemed serious.
- (2) ~~XXX~~ <sup>MH</sup> 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 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:

D. Discipline

1. Stayed Suspension.

- A. Respondent shall be suspended from the practice of law for a period of two (2) years
- 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 to \_\_\_\_\_ [payee(s)] (or the Client Security Fund, if appropriate), in the amount of \_\_\_\_\_, plus 10% per annum accruing from \_\_\_\_\_, and provides proof thereof to the Probation Unit, Office of the Chief Trial Counsel
  - iii. and until Respondent does the following: \_\_\_\_\_.
- B. The above-referenced suspension shall be stayed.

2. Probation.

Respondent shall be placed on probation for a period of two (2) years, which shall commence upon the effective date of the Supreme Court order herein. (See rule 953, California Rules of Court.)

3. Actual Suspension.

- A. Respondent shall be actually suspended from the practice of law in the State of California for a period of sixty (60) days.
- 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 to \_\_\_\_\_ [payee(s)] (or the Client Security Fund, if appropriate), in the amount of \_\_\_\_\_, plus 10% per annum accruing from \_\_\_\_\_, and provides proof thereof to the Probation Unit, Office of the Chief Trial Counsel
  - iii. and until Respondent does the following: \_\_\_\_\_.

E. Additional Conditions of Probation:

- (1)  If Respondent is actually suspended for two years or more, he/she shall remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2)  During the probation period, Respondent shall comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3)  Within ten (10) days of any change, Respondent shall report to the Membership Records Office of the State Bar and to the Probation Unit, all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4)  Respondent shall submit written quarterly reports to the Probation Unit on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, respondent shall 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. If the first report would cover less than 30 days, that report shall 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 shall be assigned a probation monitor. Respondent shall promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, respondent shall furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Probation Unit. Respondent shall cooperate fully with the probation monitor.
- (6)  Subject to assertion of applicable privileges, Respondent shall answer fully, promptly and truthfully any inquiries of the Probation Unit of the Office of the Chief Trial Counsel 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 shall provide to the Probation Unit satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended.
- (8)  Respondent shall comply with all conditions of probation imposed in the underlying criminal matter and shall so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Probation Unit.
- (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             |
- (10)  Other conditions negotiated by the parties:
- Multistate Professional Responsibility Examination: Respondent shall provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Probation Unit of the Office of the Chief Trial Counsel during the period of actual suspension or within one year, whichever period is longer. 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.
- Rule 955, California Rules of Court: Respondent shall comply with the provisions of subdivisions (a) and (c) of rule 955, California Rules of Court, within 30 and 40 days, respectively, from the effective date of the Supreme Court order herein.
- Conditional Rule 955, California Rules of Court: If Respondent remains actually suspended for 90 days or more, he/she shall comply with the provisions of subdivisions (a) and (c) of rule 955, California Rules of Court, within 120 and 130 days, respectively, from the effective date of the Supreme Court order herein.
- Credit for Interim Suspension [conviction referral cases only]: Respondent shall be credited for the period of his/her interim suspension toward the stipulated period of actual suspension.

<p>In the Matter of</p> <p><b>JUDITH ANNE FINCH,</b> No. 114851</p> <p>A Member of the State Bar.</p>	<p><b>Case No. 02-O-10906</b></p> <p><b>STIPULATION RE FACTS, CONCLUSION OF LAW, AND DISPOSITION</b></p>
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**FACTS AND CONCLUSIONS OF LAW**

**Count One: Violation of Rule 3-300 of the Rules of Professional Conduct  
[Improper Business Transactions With Clients]**

In or about March 1999, Ms. Mary Murchio, Mr. John Stice, and Ms. Lousie Augustine (“the clients”) hired respondent to represent them in a malpractice action (“the malpractice action”) against their prior attorney.

During the period starting in or about October 1999 and ending in or about October 2000, respondent made more than 20 interest-free loans, which she characterized as advances, to the clients for a total amount of approximately \$148,625.66. In each instance, respondent (1) did not fully disclose and transmit the terms of the loan in writing to the clients, (2) did not inform the clients in writing that they might seek the advice of an independent lawyer of their choice, and (3) did not thereafter obtain the written consent of the clients to the terms of the loan.

Respondent wilfully violated rule 3-300 of the Rules of Professional Conduct by making the loans to the clients without complying in each instance with the requirements (1) that the loan and its terms must be fully disclosed and transmitted in writing to the clients in a manner which should reasonably have been understood by them, (2) that the clients must be advised in writing that they may seek the advice of an independent lawyer of their choice, and (3) that the clients must thereafter consent in writing to the terms of the loan.

**Count Two: Violation of Rule 3-110(A) of the Rules of Professional Conduct  
[Reckless Failure to Perform Legal Services With Competence]**

On or about January 12, 2000, respondent signed a stipulation (“the stipulation”) in State Bar Court case number 97-O-11894. In the stipulation, respondent agreed to actual suspension from the practice of law in California for 30 days and until she satisfied a judgment against her.

On or about May 12, 2000, the California Supreme Court filed order number S 086594, which adopted the provisions of the stipulation and which was originally due to become effective on June 11, 2000. The Clerk of the California Supreme Court properly served a copy of Supreme Court order number S 086594 by mail on respondent's counsel, who received it and forwarded it to respondent.

Upon a motion by respondent, the State Bar Court issued an order staying the start of respondent's actual suspension, which began on August 16, 2000, and ended on October 4, 2000. During the actual suspension period, respondent's legal assistant ("the assistant") faxed three messages ("the messages") about the malpractice action to the attorney representing Mewes. Each fax identified the sender as "Judith A. Finch, Esq." and failed to indicate that at the time of the fax respondent was not entitled to practice law in California. The assistant drafted and faxed the messages without respondent's knowledge or consent.

Respondent wilfully violated rule 3-110(A) of the Rules of Professional Conduct insofar as she recklessly failed to supervise the assistant, who drafted and faxed the messages without her knowledge or consent.

#### **DATE OF DISCLOSURE OF ANY PENDING INVESTIGATION/PROCEEDING**

On October 23, 2003, the State Bar advised respondent by a faxed letter of any pending investigation or proceeding not resolved by this stipulation.

#### **ESTIMATED PROSECUTION COSTS OF THE CURRENT CASE**

The estimated prosecution costs of the current case are \$1,983.00. This sum is only an estimate and does not include any State Bar Court costs in a final cost assessment. If this stipulation is rejected or if relief from this stipulation is granted, the prosecution costs of the current case may increase because of the costs of further proceedings.

#### **AUTHORITIES SUPPORTING DISCIPLINE**

The Rules of Procedure of the State Bar, Title IV, Standards for Attorney Sanctions for Professional Misconduct, standards 1.3, 1.4, 1.6, 1.7, 2.4, and 2.8.

Date 10/28/03

Judith A. Finch  
Respondent's signature

Judith A. Finch  
print name  
JUDITH ANNE FINCH

Date \_\_\_\_\_

Respondent's Counsel's signature \_\_\_\_\_

print name  
~~MARK HARTMAN~~

Date Oct. 30, 2003

Deputy Trial Counsel's signature \_\_\_\_\_

Mark Hartman  
print name  
Mark Hartman

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.

*See attached modification.*

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 25, 2003  
Date

Pat McElroy  
Judge of the State Bar Court

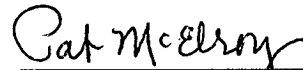


**IN THE MATTER OF JUDITH ANNE FINCH**  
**Case Number 02-O-10906**

**COURT'S MODIFICATION TO STIPULATED FACTS,**  
**CONCLUSIONS OF LAW AND DISPOSITION**

1. On page 2, Section B (1) (d) shall read actual suspension of 30 days instead of actual suspension of 60 days.

November 25, 2003  
Dated

  
\_\_\_\_\_  
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. 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 San Francisco, on November 25, 2003, I deposited a true copy of the following document(s):

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

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


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

**JUDITH ANNE FINCH  
3200A DANVILLE BLVD #101  
ALAMO CA 94507**

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

**MARK HARTMAN, Enforcement, San Francisco**

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on November 25, 2003.

  
**Laretta Cramer**  
Case Administrator  
State Bar Court