


Counsel for the State Bar The State Bar of California Office of the Chief Trial Counsel Erin M. Joyce, #149946 1149 South Hill Street Los Angeles, CA 90015-2299 (213) 760-1000	Case number(s) 02-0-14783 03-0-03646 <div style="text-align: center;"> <small>kwiktag® 035 115 203</small>  </div>	(for Court's use) <div style="text-align: center; font-size: 24pt; font-weight: bold;">ORIGINAL FILED</div> <div style="text-align: center; font-size: 18pt; font-weight: bold;">OCT 29 2003</div> <div style="text-align: center; font-size: 12pt;"> STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div> <div style="text-align: center; font-size: 24pt; font-weight: bold; margin-top: 20px;">PUBLIC MATTER</div>
Counsel for Respondent Carolyn S. Janzen 1351 W. McCabe Rd. El Centro, CA 92243 (760) 352-0464 IN PROPER	Submitted to <input checked="" type="checkbox"/> assigned judge <input type="checkbox"/> settlement judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of Carolyn Sue Janzen Bar # 102998 A Member of the State Bar of California (Respondent)		

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted June 16, 1982
(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 9 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):
 - costs added to membership fee for calendar year following effective date of discipline
 - costs to be paid in equal amounts prior to February 1 for the following membership years:
2004, 2005, 2006
 (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 (definition, see Standards for Attorneys' Functions for Professional Misconduct, standard 1.2(b).) Facts supporting aggravating circumstances are required.

- (1) Prior record of discipline [see standard 1.2(f)]
- (a) State Bar Court case # of prior case _____
- (b) date prior discipline effective _____
- (c) Rules of Professional Conduct/ State Bar Act violations: _____

- (d) degree of prior discipline _____
- (e) If Respondent has two or more incidents of prior discipline, use space provided below or 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) 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) 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) 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.
- (10) 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.
- (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:

1. Stayed Suspension.

A. Respondent shall be suspended from the practice of law for a period of one (1) year

- 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.)

E. Additional Conditions of Probation:

- (1) During the probation period, Respondent shall comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2) 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.
- (3) 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.

- (4) 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.
- (5) Subject to assertion of applicable privileges, Respondent shall answer fully, promptly and truthfully any inquiries of the Probation Unit of the State Bar Of California 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.

- (6) 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.
- (7) 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.
- (8) The following conditions are attached hereto and incorporated:
- Substance Abuse Conditions Law Office Management Conditions
- Medical Conditions Financial Conditions
- (9) Other conditions negotiated by the parties:
See Stipulation attached.

- 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 State Bar of California within one year. Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 951(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.
- No MPRE recommended.

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: CAROLYN SUE JANZEN

CASE NUMBER(S): 02-O-14783

FACTS AND CONCLUSIONS OF LAW.

The parties to this stipulation, Respondent Carolyn Sue Janzen and the State Bar of California, through Deputy Trial Counsel Erin Joyce, stipulate and agree to the following facts and conclusions of law:

Jurisdiction

Respondent Carolyn Sue Janzen was admitted to practice law in the State of California on June 16, 1982, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.

**Case No. 02-O-14783
Rules of Professional Conduct, rule 4-100(A)
[Commingling]**

Respondent wilfully violated Rule of Professional Conduct 4-100(A) by depositing or commingling funds belonging to Respondent in his client trust account, as follows:

At all times relevant herein, Respondent maintained a client trust account at Bank of America, account number 16647-02149.

Between in or about April 24, 2002 and June 14, 2002, Respondent repeatedly issued checks drawn on her client trust account to pay for Respondent's personal or business expenses, as follows:

Check No.	Payee	Date of Check	Amount
137	Quechan Indian Tribe	April 24, 2002	\$1,000.00
138	Sign Masters	May 2, 2002	\$ 380.00
139	Carolyn Janzen	May 22, 2002	\$3,000.00

140	Nancy P.	May 22, 2002	\$ 301.00
142	Rita S.	June 7, 2002	\$ 150.00
143	Gabriel Torrez	June 7, 2002	\$ 150.00
144	State Farm Insurance	June 7, 2002	\$ 215.52
145	Carolyn Janzen	June 7, 2002	\$3,200.00
146	Ocwen	June 12, 2002	\$3,498.88
148	Valley Bar Association	June 12, 2002	\$ 130.00
149	Post Office	June 12, 2002	\$ 34.00
150	Rita S.	June 14, 2002	\$ 150.00
151	IID	June 14, 2002	\$ 372.88
152	Gabriel Torrez	June 14, 2002	\$ 150.00

Respondent maintained earned fees and personal funds in her client trust account to issue checks to pay for his personal and business expenses.

By maintaining personal funds in his client trust account and issuing payment of a personal business debts from her client trust account, Respondent deposited or commingled funds belonging to Respondent in an client trust account in violation of Rule of Professional Conduct 4-100(A).

Case No. 03-O-03646
Rule of Professional Conduct 4-100(A)
[Commingling]

Respondent wilfully violated Rule of Professional Conduct 4-100(A), by depositing or commingling funds belonging to Respondent in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import, as follows:

At all times relevant herein, Respondent maintained a client trust account at Bank of America, account number 16647-02149.

Between June 3, 2003 and June 6, 2003, Respondent repeatedly conducted electronic transactions drawn on her client trust account to pay for Respondent's personal or business expenses, as follows:

Transaction	Payee	Date of Transaction	Amount	Account Balance
Electronic	Respondent	June 3, 2003	\$515.31	\$21.49
Electronic	Respondent	June 6, 2003	\$515.31	\$7.49

By maintaining personal funds in his client trust account and issuing payment of a personal business debts from her client trust account, Respondent deposited or commingled funds belonging to Respondent in an client trust account in violation of Rule of Professional Conduct 4-100(A).

AUTHORITIES SUPPORTING DISCIPLINE

STANDARDS FOR ATTORNEY SANCTIONS

Pursuant to Standard 2.2(b) of the Standards for Attorney Sanctions for Professional Misconduct:

Culpability of a member of commingling of entrusted funds or property with personal property of the commission of another violation of Rule 4-100, Rules of Professional Conduct, none of which of offenses result in the wilful misappropriation of entrusted funds or property shall result in at least a three month actual suspension from the practice of law, irrespective of mitigating circumstances.

While the Standard seems to require the imposition of actual suspension for a violation of Rule 4-100(A), case law and the facts of this case militate against such a harsh penalty. First of all, no client monies were involved. Respondent has also taken steps to address the problems with her CTA. She has not held client monies since before the commencement of the proceedings.

OTHER CONDITIONS NEGOTIATED BY THE PARTIES

Continuing Legal Education

Respondent shall successfully complete six (6) hours of participatory continuing legal education courses in attorney/client relations above those required for his license and provide proof of completion within one (1) year of the effective date of the order approving this stipulation re facts, conclusions of law and disposition to the Probation Unit of the State Bar of California.

Client Trust Account Courses

Within one year of the effective date of the order approving this stipulation re facts, Respondent shall attend the State Bar Client Trust Accounting School. Respondent shall furnish satisfactory evidence of the attendance of the State Bar Client Trust Account School to the Probation Unit, of the State Bar of California, in the next Quarterly Report following her attendance.

9/2/03
Date

Colyn Sue Janzen
Respondent's signature

Colyn Sue Janzen
print name

Date

Respondent's Counsel's signature

print name

10-1-03
Date

Erin M. Joyce
Deputy Trial Counsel's signature

Erin M. Joyce
print name

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.

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.)

10-22-03
Date

[Signature]
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 Los Angeles, on October 29, 2003, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION
AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL
SUSPENSION, filed October 29, 2003**

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:

**CAROLYN S. JANZEN
1351 W. McCabe Rd.
El Centro CA 92243**

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

ERIN M. JOYCE, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **October 29, 2003**.



Tammy R. Cleaver
Case Administrator
State Bar Court