

~~CONFIDENTIAL~~



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<b>State Bar Court of California</b> Hearing Department <input type="checkbox"/> Los Angeles <input checked="" type="checkbox"/> San Francisco <b>PROGRAM FOR RESPONDENTS WITH SUBSTANCE ABUSE AND MENTAL HEALTH ISSUES</b>		
Counsel for the State Bar Cydney Batchelor State Bar of California 180 Howard St., 7th Fl. San Francisco, CA 94105 Tele: 415/538-2204  Bar #        114637	Case Number(s)  03-C-4482-PEM	(for Court) <b>FILED</b> OCT 24 2007 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO <del>LODGED</del> APR 10 2006 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO <b>PUBLIC MATTER</b>
<input type="checkbox"/> Counsel for Respondent <input checked="" type="checkbox"/> In Pro Per Lorraine D. Garner 10140 Crawford Way Sacramento, CA 95827 Tele: 916/362-0880  Bar #        226107	Submitted to Program Judge  <b>STIPULATION RE FACTS AND CONCLUSIONS OF LAW</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of LORRAYNE D. GARNER  Bar #        226107 A Member of the State Bar of California (Respondent)		

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

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted July 7, 2003  
(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, except for Probation Revocation Proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation and order consists of 8 pages.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."        See attached
- (5) Conclusions of law, drawn from and specifically referring to the facts, are also included under "Conclusions of Law."        See attached

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- (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.

**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" (above)
- (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. See attached
- (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. See attached
- (8)  **No aggravating circumstances are involved.**

**Additional aggravating circumstances:**

See attached

(Do not write above this line.)

**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) ~~xxxx~~  **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) ~~xxxx~~  **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.  
See attached
- (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) ~~xxxx~~  **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. See attached
- (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:**

See attached

(Do not write above this line.)

In the Matter of  LORRAYNE D. GARNER	Case number(s):  03-C-4482-PEM
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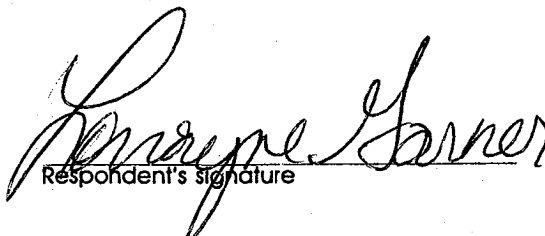
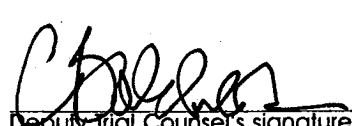
### SIGNATURE OF THE PARTIES

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

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

If the Respondent is not accepted into the Program or does not sign the 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 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.

<u>4/15/05</u> Date	 Respondent's signature	<u>LORRAYNE D. GARNER</u> Print name
<u>N/A</u> Date	<u>N/A</u> Respondent's Counsel's signature	<u>N/A</u> Print name
<u>6/1/05</u> Date	 Deputy Trial Counsel's signature	<u>CYDNEY BATCHELOR</u> Print name

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

IN THE MATTER OF:       LORRAYNE D. GARNER

CASE NUMBER(S):        03-C-04482

**FACTS AND CONCLUSIONS OF LAW.**

**Procedural Background:** This is a proceeding pursuant to sections 6101 and 6102 of the Business and Professions Code and rule 951 of the California Rules of Court. On February 10, 2004, Respondent was convicted of a misdemeanor violation of Penal Code 487(a) [grand theft]. On July 29, 2004, the Review Department of the State Bar Court issued an order referring the matter to the Hearing Department for a hearing and decision recommending the discipline to be imposed in the event that the Hearing Department found that the facts and circumstances surrounding the conviction involved mortal turpitude or other misconduct warranting discipline. The Review Department also placed Respondent on interim suspension as a result of the conviction, effective August 30, 2004.

**Facts:** Between August 2002 and May 2003, while she was employed at the Elk Grove Unified School District, Respondent falsified her time sheets to claim hours that she had not worked, in the aggregate amount of \$6,000.00. On July 17, 2003, Respondent was charged with felony violations of Penal Code section 503 [embezzlement], 487(a) [grand theft], and 470(a) [forgery]. On February 10, 2004, Respondent pled nolo contendere to one misdemeanor count of Penal Code Section 487(a) [grand theft].

**Legal Conclusions:** The facts and circumstances surrounding Respondent's misdemeanor violation of Penal Code Section 487(a) involved moral turpitude. The Respondent acknowledges that by the conduct described above, she willfully violated Business and Professions Code sections 6068(a) and 6106.

## AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Misconduct: The misconduct involved several instances of submitting falsified time sheets.

Dishonesty and Overreaching: The misconduct involved dishonesty and overreaching.

### **Additional Aggravating Factors:**

Misconduct Before Admittance: At the time that Respondent committed the misconduct (August 2002 to May 2003), she was in the process of asking to be admitted to the practice of law in California, and did not disclose her misconduct to the Committee of Bar Examiners. Respondent was admitted on July 7, 2003.

## MITIGATING CIRCUMSTANCES.

Candor and cooperation: Respondent has been completely candid and cooperative with the State Bar during its investigation and resolution of this case.

### **Additional Mitigating Circumstances.**

Family Problems: At the time that Respondent falsified her time sheets and collected unemployment insurance, she was married. She is now divorced. If called as a witness, Respondent would testify that she committed her criminal misconduct at the insistence of her husband. Although he was charged, he was not convicted because he returned to his native country, Russia.

Medical Problems: At the time she committed the stipulated to criminal acts, Respondent was being treated for serious heart problems, which exacerbated with the birth of her daughter in 2004, and then were resolved.

Participation in Lawyer's Assistance Program. On September 9, 2004, Respondent voluntarily signed a pre-enrollment assessment agreement with the State Bar's Lawyer Assistance Program (LAP). Respondent is now being assessed and monitored for a period for time by the LAP. At the conclusion of the LAP evaluation, Respondent will meet with its Evaluation Committee, and will be accepted into the LAP program. She will then sign a participation plan that will memorialize her long-term commitment to the program.

**PENDING PROCEEDINGS.**

The disclosure date referred to on page one, paragraph A.(6), was February 10, 2005.

**RESTITUTION.**

Respondent waives any objection to immediate payment by the State Bar Client Security Fund upon a claim or claims for the principal amounts of restitution set forth below:

In accordance with the timetable set forth in the in the State Bar Court Program to be executed between the State Bar Court and Respondent on the captioned case, Respondent must make restitution as follows:

Elk Grove Unified School District/and or State of California Employment Development Division in the principal amount to be finally determined by the Sacramento County Superior Court as a condition of Respondent's probation in the criminal case which underlies these proceedings, plus interest at the rate of 10% per annum from the date set by said court.

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In the Matter of  LORRAYNE D. GARNER	Case number(s):  03-C-4482-PEM
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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 court dates in the Hearing Department are vacated.

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

April 7, 2006  
Date

Pat McElroy  
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 San Francisco, on April 10, 2006, 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**

**CONFIDENTIAL STATEMENT OF ALTERNATIVE DISPOSITIONS AND ORDERS  
(Rules Proc. of State Bar, rule 803(a))**

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

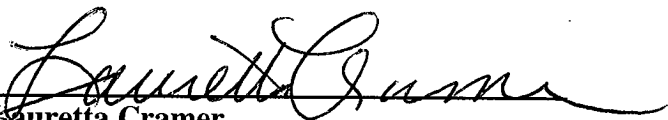
by personal delivery as follows:

**CYDNEY BATCHELOR  
180 HOWARD STREET, 6<sup>TH</sup>  
FLOOR  
SAN FRANCISCO, CA 94105**

**LORRAYNE D. GARNER  
180 HOWARD STREET, 6<sup>TH</sup>  
FLOOR  
SAN FRANCISCO, CA 94105**

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

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **April 10, 2006.**

  
**Lauretta Cramer**  
Case Administrator  
State Bar Court