



PUBLIC MATTER

ORIGINAL

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| State Bar Court of California | | |
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| Hearing Department <input checked="" type="checkbox"/> Los Angeles <input type="checkbox"/> San Francisco | | |
| PROGRAM FOR RESPONDENTS WITH SUBSTANCE ABUSE AND MENTAL HEALTH ISSUES | | |
| Counsel for the State Bar OFFICE OF THE CHIEF TRIAL COUNSEL - ENFORCEMENT DAVID T. SAUBER 1149 S. HILL STREET, 9th Fl. LOS ANGELES, CA 90015-2299 Telephone (213) 765-1252 Bar # 176554 | Case Number(s) 03-C-05219; Investigations: 03-0-03756 04-0-11495 | (for Court use) CONFIDENTIAL LODGED MAY 26 2006 STATE BAR COURT CLERK'S OFFICE LOS ANGELES |
| <input checked="" type="checkbox"/> Counsel for Respondent <input type="checkbox"/> In Pro Per SUSAN L. MARGOLIS MARGOLIS & MARGOLIS 2000 RIVERSIDE DRIVE LOS ANGELES, CA 90039-3758 Telephone (323) 953-8996 Bar # 104629 | FILED JUN 04 2009 STATE BAR COURT CLERK'S OFFICE LOS ANGELES | |
| In the Matter of REBECCA AMELIA TAPIA Bar # 83053 A Member of the State Bar of California (Respondent) | Submitted to Program Judge STIPULATION RE FACTS AND CONCLUSIONS OF LAW <input type="checkbox"/> PREVIOUS STIPULATION REJECTED | |

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 November 29, 1978 (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 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."

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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 93-C-12612
- (b) Date prior discipline effective July 27, 1997
- (c) Rules of Professional Conduct/State Bar Action violations B&P Sections 6101 and 6102.
- (d) Degree of prior discipline 3 Years Stayed Suspension: 3 years Probation with 20 month Actual Suspension.
- (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.
- (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 ~~Acts 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:

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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:

REFER TO ATTACHMENT PAGE 4

ATTACHMENT TO
STIPULATION RE FACTS AND CONCLUSIONS OF LAW

IN THE MATTER OF: REBECCA AMELIA TAPIA

CASE NUMBERS: 03-C-05219; Investigative Cases 03-O-03756 & 04-O-11495

FACTS AND CONCLUSIONS OF LAW:

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

Facts for Case No. 03-C-05219

1. On March 12, 2001, Respondent was convicted in Los Angeles Superior Court Case No. 0DW04704 of violating Vehicle Code section 23152(a): Driving under the influence of alcohol or drugs.
2. On May 10, 2001, a Downey Police Department officer responded to the scene of a traffic collision. The officer contacted Respondent who indicated she had been driving her vehicle and that she had taken one Valium pill two hours prior. Subsequent to administering field sobriety tests, the officer placed Respondent under arrest for driving under the influence of valium.
3. On September 16, 2002, Respondent signed a DUI Advisement of Rights, Waiver, and Plea Form ("Plea") in Los Angeles Superior Court Case No. 1DW03541. Pursuant to the Plea, Respondent pled guilty to violating Vehicle Code section 23152(a): Driving under the influence of alcohol or drugs. Further, Respondent admitted to having been previously convicted in Case No. 0DW04704 and that the present conviction was a violation of her probation in Case No. 0DW04704.
4. On December 12, 2002, the Court in Case No. 0DW04704 ordered that the imposition of sentence was stayed and that Respondent was placed on 36 months summary probation on conditions including her serving 96 hours in jail and paying a fine.

Conclusions of Law for Case No. 03-C-05219

5. The facts and circumstances surrounding Respondent's convictions, including her wilful violation of California Vehicle Code section 23152(a) and her violation of her court ordered probation, do not involve moral turpitude but do involve other misconduct warranting discipline pursuant to Business and Professions Code, sections 6101 and 6102.

Facts for Case No. 03-O-03756

6. In 1981, Barbara Anita Hindry ("Hindry") gave Respondent a power of attorney for use with her bank checking account. From 1981 until Hindry's death in 1991, Respondent has stated that she paid bills for Hindry and arranged for her in-home nursing and other care.
7. Subsequently, Hindry gave Respondent a written general power of attorney that was used by Respondent to sell Hindry's residence in 1991.
8. On October 12, 1991, Hindry died.

9. In 1996, four (4) years after Hindry's death, the purchaser of Hindry's residence filed a petition to probate hindry's estate in order to have certain securities he found in Hindry's residence transferred from Hindry's name to his name. Later in the same year, the Public Administrator was appointed to administer Hindry's estate (the "Hindry Estate").

10. In 1996, the purchaser of Hindry's residence located and delivered to the Public Administrator copies of nine (9) checks from Hindry's checking account signed by Respondent in 1991. The checks were payable to Respondent or her paralegal, Jennifer Baughman.

11. Subsequently, the Public Administrator obtained a copy of the check payable to Hindry in 1991, for the proceeds of the sale of her house. This check was in the amount of \$209,189.96. The check had been endorsed by Respondent and deposited into Hindry's checking account in October 1991.

12. In 1999, the Public Administrator asked Respondent if she could provide an accounting regarding the nine (9) checks written to her and her paralegal. Respondent replied that her records regarding Hindry were destroyed in a fire in 1995 and that she was unable to provide an accounting.

13. In July 2000, the Public Administrator deposed Respondent regarding the nine (9) checks written to her and her paralegal. Respondent consistently testified that the nine (9) checks were used for reimbursement for expenses incurred by them and/or services rendered in managing Hindry's finances. At the close of her testimony, Respondent agreed to produce declarations from individuals to substantiate her testimony that Hindry's records were destroyed. She did not do so at that time.

14. In February 2001, at the close of Respondent's second deposition, she agreed to produce statements, declarations, or other documents to substantiate her testimony that the nine (9) checks were used for reimbursement for legal fees incurred or for costs covered on behalf of Ms. Hindry. Respondent did not do so at that time.

15. The Hindry Estate was unable to obtain financial records from Hindry's bank due to the lapse of time. In late 2002, the Public Administrator filed an action against Respondent to recover the monies evidenced by the nine (9) checks and the proceeds from the sale of Hindry's residence, based upon Respondent's failure to provide any type of accounting or other evidence after her depositions. In 2003, a default judgment was entered against Respondent. Respondent was ordered to, among other things, pay the estate the amount of monies represented by the nine (9) checks and the proceeds from the sale of the residence, totaling \$240, 969.96.

Conclusions of Law for Case No. 03-O-03756.

16. By failing to provide an accounting to the Public Administrator in 2000 and 2001, Respondent wilfully violated Rules of Professional Conduct, rule 4-100(B)(3).

Facts for Case No. 04-O-11495

17. In January 2003, Respondent was employed by Noriaki Kunitomo ("Kunitomo") to represent him in a criminal matter. The signed retainer agreement indicates that Respondent was to receive \$5,000 for the representation, which was to be paid in three installments. Respondent was paid \$2,000 for this representation by way of check no. 478, dated January 17, 2003.

18. On February 17, 2003, Respondent was employed by Kunitomo to defend him in a civil matter filed by Mami Ito. The signed retainer agreement states that Respondent was to be paid a \$2,000 retainer and \$150.00 per hour for her legal services. Respondent was paid \$2,000 for this representation by way of check no. 493, dated February 19, 2003.

19. On or about March 19, 2003, Respondent received an additional \$2,800 by way of check no. 509 for her services in the civil matter.

20. Respondent failed to file an answer in the civil matter. As a result Kunitono's default was entered against him. Kunitono hired new counsel to file a motion to set aside default which was granted on October 29, 2003.

21. Respondent indicated in her declaration in support of the motion to set aside default that she had relied upon her paralegal to file the Answer in the civil matter. However, she was surprised to learn later that the Answer had never been filed.

22. By letter dated January 21, 2004, Kunitono requested that Respondent return all unearned legal fees paid to Respondent. On or about February 27, 2006, Respondent sent a cashier's check in the amount of \$4,800 to Kunitono's attorney, John Holmes, Esq. Along with the check, Respondent sent a memorandum agreeing to also pay 10 percent interest per annum from March 2003.

Conclusions of Law for Case No. 04-O-11495

23. By failing to return any of the \$4,800 paid to Respondent by Kunitono in the civil matter until on or about February 27, 2006, Respondent has failed to promptly refund any part of a fee paid in advance that has not been earned in wilful violation of Rules of Professional Conduct, rule 3-700(D)(2).

24. By failing to assure that the Answer was filed in the civil case against Kunitono and failing to properly supervise her paralegal, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of Rules of Professional Conduct, rule 3-110(A).

PENDING CASES:

The written advice of pending cases, referenced in paragraph A.(6), was sent on January 18, 2006.

RESTITUTION:

In Case No. 04-O-11495, Respondent owes as restitution to Noriaki Kunitomo, interest on the principal amount of \$4,800 at the rate of ten percent (10%) per annum from the date incurred which was March 19, 2003. Respondent agrees to pay the calculated interest during the period of her ADP participation. Further, should the State Bar Client Security Fund ("CSF") pay the amount owed as restitution, Respondent agrees to fully reimburse CSF.

OTHER FINANCIAL CONDITIONS:

No later than nine months prior to the expiration of her probation, Respondent shall provide proof, in the form of a conformed copy of a Satisfaction of Judgment, of full payment of the judgment in the case of *Estate of Barbara Hindry, deceased*, Los Angeles Superior Court Case No. BP039801 (probate) or provide proof that she has successfully vacated the judgment. In the event Respondent, through negotiations with County Counsel and the Estate of Barbara Hindry obtains an agreement by the parties for payment of a reduced amount, Respondent shall provide the Office of Probation

with proof of said agreement, as well as proof that she has completed payment of the compromised amount.

In the event that additional time is needed to complete payment of the judgment in either the full or compromised amount based on financial inability or other good cause, Respondent understands that she has the right to file a Motion for Modification of Probation pursuant to Rules of Procedure of the State Bar of California, rule 550 et seq.

MITIGATING CIRCUMSTANCES:

Emotional and Physical Difficulties- According to Respondent, from 1990 through 1991, Respondent was diagnosed with Chronic Fatigue Syndrome and hepatitis, which she indicates caused her severe physical and psychological stress.

Respondent further indicates the following:

From 1994 through the present time, Respondent suffered severe financial losses resulting in extreme stress. In or about January 1994, Respondent's home and almost all personal property, including all files, paperwork for her cases including the Hindry case, were destroyed in the Northridge earthquake and the subsequent fire. As a result of difficulties with insurance companies, Respondent lost her home to a foreclosure sale. Respondent was not successful in collecting any proceeds from the earthquake insurance until 1997. During the time period of 1995 through 1997, Respondent was unable to practice law and could only obtain low wage jobs.

In 1996, when the Public Administrator first contacted Respondent regarding Barbara Hindry, Respondent fully cooperated in providing information regarding the purchaser of Hindry's residence, resulting in the proceeds of stocks found by the purchaser being placed into the Hindry Estate. The Public Administrator first requested that Respondent provide an accounting in 1999, but did not pursue it further when she replied that she was unable to provide one due to the destruction of her records. It was not until 1999, when records were no longer available from financial institutions, that the Public Administrator requested an accounting from Respondent. In 2000 and 2001, when Respondent was deposed regarding the nine (9) checks written to herself and her paralegal, she was severely depressed and undergoing personal and financial difficulties. Her preliminary attempts to obtain records some nine (9) years after the events, and five (5) to six (6) years after her records were destroyed were overwhelming to her at that time. In 2003, when Respondent failed to appear at the court hearing, she was suffering severe depression and emotional distress following the death, a few months before, of her life partner of 27 years, who had also served as her office manager and paralegal.

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| In the Matter of REBECCA AMELIA TAPIA Member # 83053 | Case number(s): 03-C-05219 Investigations: 03-0-03756; 04-0-11495 |
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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.

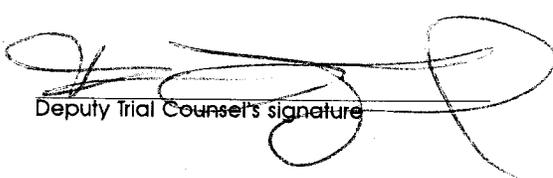
Respondent enters into this stipulation as a condition of his/her participation in the Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Program Contract.

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.

Date 3/9/06 Respondent's signature  REBECCA AMELIA TAPIA
Print name

Date 3/8/06 Respondent's Counsel's signature  SUSAN L. MARGOLIS
Print name

Date 3/14/06 ⁰¹⁵ ~~3/9/06~~ Deputy Trial Counselor's signature  DAVID T. SAUBER
Print name

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| In the Matter of REBECCA AMELIA TAPIA Member # 83053 | Case number(s): 03-C-05219; Investigations: 03-0-03756; 04-0-11495 |
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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.

1. On page 4 of the Stipulation Re Facts and Conclusions of Law ("stipulation"), first line under the heading "Facts and Conclusions of Law," "he" is deleted, and in its place is inserted "she".
2. On page 4 of the stipulation, paragraph 4, "0DW04704" is deleted, and in its place is inserted "1DW03541".
3. On page 7 of the stipulation, second line at the top of the page, "no later than nine months prior to the expiration of her probation" is inserted after "amount".

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.)

5/26/08
Date



Judge of the State Bar Court

RICHARD A. HONN

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 May 30, 2006, I deposited a true copy of the following document(s):

STATEMENT OF ALTERNATIVE DISPOSITIONS AND ORDERS;

STIPULATION RE FACTS AND CONCLUSIONS OF LAW;

**CONTRACT AND WAIVER FOR PARTICIPATION IN THE STATE BAR COURT'S
ALTERNATIVE DISCIPLINE PROGRAM;**

ORDER filed 5/30/06

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

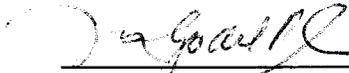
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**SUSAN LYNN MARGOLIS
MARGOLIS & MARGOLIS LLP
2000 RIVERSIDE DR
LOS ANGELES, CA 90039**

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

David Sauber, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **May 30, 2006**.



Milagro del R. Salmeron
Case Administrator
State Bar Court