



(Do not write above this line.)

State Bar Court of California Hearing Department San Francisco PROGRAM FOR RESPONDENTS WITH SUBSTANCE ABUSE OR MENTAL HEALTH ISSUES		
Counsel For The State Bar Cydney Batchelor Deputy Trial Counsel 180 Howard St., 7th Fl. San Francisco, CA 94105 Tele: 415/538-2204	Case Number (s) 03-O-05188-PEM 03-O-05193 [05-O-01860 05-O-04071 06-O-10560 06-O-10568]	(for Court's use) <div style="text-align: center;"> CONFIDENTIAL PUBLIC MATTER LODGED MAR 12 2007 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO </div>
Bar # 114637 In Pro Per Respondent Janene R. Weber Attorney at Law 1099 E. Champlain Dr., Suite A20 Fresno, CA 93720 Tele: 559/776-9498	FILED NOV 02 2010 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO	
Bar # 155021 In the Matter Of: JANENE R. WEBER Bar # 155021 A Member of the State Bar of California (Respondent)	Submitted to: Assigned Judge STIPULATION RE FACTS, 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 12/17/1991.
- (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 the 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 consists of 12 pages, excluding the order.
- (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".

(Stipulation form approved by SBC Executive Committee 9/18/2002. Rev. 12/16/2004.)

(Do not write above this line.)

- (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 [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
- (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:
- (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. See attached
- (8) No aggravating circumstances are involved.

Additional aggravating circumstances:

None

(Do not write above this line.)

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 with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings. **See attached**
- (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:

See attached

ATTACHMENT TO
STIPULATION RE FACTS AND CONCLUSIONS OF LAW

IN THE MATTER OF: **JANENE R. WEBER**

CASE NUMBERS: **03-O-05188-PEM, ET AL**

FACTS AND CONCLUSIONS OF LAW.

Case No. 03-O-5188 (Fehlman)

Facts:

1. On July 24, 2003, respondent was employed by Sherrie Fehlman ("Fehlman") to represent her in a juvenile dependency matter in Tulare County Court, and to appear at a contested hearing in the matter on July 29, 2003, at 1:30 p.m. At this time, Fehlman paid respondent \$3000.00 in advanced attorney fees; however, respondent did not provide Fehlman with an attorney-client fee agreement then or subsequently.

2. After July 24, 2003, Fehlman's previous attorney made several calls to respondent, and left telephone messages for her about a substitution of attorney. Respondent received these messages, but failed to return the calls.

3. Respondent scheduled a telephone call with Fehlman for July 29, 2003 at 10:00 a.m., to discuss the hearing which was set for that afternoon. However, respondent failed to keep the appointment.

4. Thereafter, respondent performed no legal services for Fehlman. She failed to appear at in court on July 29, 2003 until after court was closed for the day; Fehlman was represented at the appearance by her former attorney, who had appeared initially only to sign the substitution of attorney.

5. After July 29, 2003, Fehlman made several telephone calls to respondent's offices, leaving messages requesting the return of the unearned, advanced attorney fees of \$3000.00. Respondent received these messages, but failed to respond.

6. Respondent did not refund any unearned attorney fees volitionally until October 2004, after the intervention of the State Bar.

Conclusions of Law: By recklessly failing to appear at the July 29, 2003 hearing in a timely manner and failing to perform any other services of value to Fehlman, respondent failed to perform competently the legal services for which she was employed, in violation of Rule of Professional Conduct 3-110(A). By willfully failing to refund any unearned fees promptly upon Fehlman's request, respondent failed to refund promptly, upon termination of employment, any part of a fee paid in advance that had not been earned, in violation of Rule of Professional Conduct 3-700(D)(2).

Case No. 03-O-05193 (Harper)

Facts:

1. On August 7, 2003, respondent was employed by Randy and Judy Harper ("the Harpers") to represent them in obtaining guardianship of their grandchildren in Fresno County Superior Court. At that time, respondent quoted the Harpers a flat fee of \$2500.00 for the services, and Mrs. Harper paid respondent \$500.00 in advanced fees at that time. Respondent did not provide Fehlman with an attorney-client fee agreement then or subsequently.

2. Thereafter, respondent contacted the Harpers and told them that she would require another \$2000 in attorney fees to remain on the case. Between August 13, 2003 and August 20, 2003, the Harper's paid respondent an additional \$3000.00 in advanced attorney fees (\$1500.00 on August 13, \$500.00 on August 14, and \$1000.00 on August 20), for a total of \$3500.00 in advanced fees.

3. On August 29, 2003, respondent submitted a request for Order to Show Cause for modification of child custody to the court ("OSC"). However, respondent used the wrong form for a joinder, and the court denied the OSC on September 5, 2003.

4. On September 9, 2003, the court returned the OSC papers to respondent and asked her to submit the joinder motion along with the motion for custody and visitation. Respondent received the returned papers, and on September 15, 2003, resubmitted the OSC papers to the court.

5. On September 19, 2003, respondent had a telephone conference with the Harpers and arranged to meet with them on September 26, 2003. Respondent failed to appear at the meeting. However, the Harpers paid her an additional \$1000.00 in attorney fees at that time (\$972.62 plus \$23.28).

6. On October 16, 2003, Mrs. Harper called respondent and requested an

accounting. Respondent replied that she would provide the accounting, and scheduled a meeting with the Harpers for October 23, 2003.

9. On October 23, 2003, respondent again failed to appear for the meeting with the Harpers. On October 24, 2003, Mr. Harper spoke to respondent, terminated her employment, and asked for a refund. Respondent hung up on him. Thereafter, respondent failed ever to provide an accounting to the Harpers; however, she did refund the unearned fees.

Conclusions of Law: By willfully failing to account to the Harpers for the \$4500.00 in advanced attorney fees upon their request, respondent failed to render appropriate accounts to a client regarding all funds of the client coming into her possession, in violation of Rule of Professional Conduct 4-100(B)(3).

Case No. 05-O-01860 (Cates)

Facts:

1. On November 4, 2004, respondent was employed by Tina Cates ("Cates") to prepare legal documents for Cates to file in an effort to obtain custody of Cates' son. At that time, respondent quoted Cates a flat fee of \$500.00 for the documents, and Cates paid respondent \$100.00 as advanced fees.

2. On November 24, 2004, respondent telephoned Cates and told her that if she wanted an immediate court date, that an order to show cause hearing was necessary and that she would prepare and file the moving papers for an additional \$200.00 in advanced fees. Respondent sent her secretary to Cates' place of employment to collect the \$200.00, and Cates paid the \$200.00 to respondent's secretary.

3. On November 30, 2004, as pre-arranged, Cates went to respondent's office to sign the order to show cause papers; however, no one was there, and Cates was unable to sign the motion. Later that day, Cates was able to contact respondent, and informed her that she would be moving to Arizona on December 5, 2004. On December 2, 2004, Cates signed the moving papers at respondent's office, and respondent represented that she would file the OSC papers for Cates.

4. Thereafter, Cates made several telephone calls to respondent to determine the status of the OSC hearing. In fact, the OSC papers had never been filed.

5. On January 4, 2005, in response to a request from respondent's secretary,

Cates paid respondent an additional \$50.00 in attorney fees, for a total of \$350.00.

6. On January 10, 2005, Cates visited California and checked on the status of her custody case at the courthouse, and determined that respondent had never filed any motion on her behalf.

7. Thereafter, from January through March 2005, Cates and Cates' mother telephoned respondent on numerous occasions to inquire as to the status of Cates' child custody matter, to terminate respondent, and to request a refund and the return of her client file. Respondent failed ever to reply, or to refund the attorney fees.

Conclusions of Law: By failing to confirm that the OSC papers had been filed with the court, respondent failed to perform competently the legal services for which she was employed, in violation of Rule of Professional Conduct 3-110(A). By willfully failing to respond to the repeated inquiries of Cates' mother on Cates' behalf about the status of the case, respondent failed to respond promptly to reasonable status inquiries of a client, in violation of Business and Professions Code section 6068(m). By willfully failing to refund the unearned advanced fees of \$350.00 to Cates, promptly or at any other time, respondent failed, upon termination of employment, to refund promptly any part of a fee paid in advance that had not been earned, in violation of Rule of Professional Conduct 3-700(D)(2).

Case No.05-O-04071 (Olguin)

Facts:

1. On May 30, 2005, respondent was employed by Marian Olguin ("Olguin") to represent her in a child support arrearage matter. Olguin paid her \$500.00 in advanced attorney fees at that time.

2. On June 21, 2005, respondent contacted Olguin by telephone and told her that respondent could handle the entire matter for a total fee of \$1250.00. On June 23, 2005, Olguin paid respondent an additional \$500.00 in advanced attorney fees.

3. Thereafter, respondent failed to appear at two hearings on Olguin's behalf, on July 12, 2005 and August 2, 2005.

4. On August 12, 2005, Olguin called respondent, and requested the return of all her documents. Respondent said she would comply, and would also calendar another hearing.

5. On August 18, 2005, respondent said she would return Olguin's documents. However, she failed to do so until November 2005, after the intervention of the State Bar.

7. In October 2005, Olguin also demanded a return of her advanced attorney fees from respondent. On October 19, 2005, respondent agreed to refund the fees in full; however, she has failed to do so.

Conclusions of Law: By willfully failing to return Olguin's documents to her in a timely manner, respondent failed to promptly release to the client, at the request of the client, all the client papers, in violation of Rule of Professional Conduct 3-700(D)(1). By willfully failing to return the unearned advanced attorney fees to Olguin, promptly or at any time, respondent failed to promptly refund any part of a fee paid in advance that had not been earned, in violation of Rule of Professional Conduct 3-700(D)(2).

Case No. 06-O-10560 (Turretto)

Facts:

1. On August 22, 2005, respondent was employed by Jennifer Turretto ("Turretto") to represent her in a child custody and visitation matter. At that time, Turretto paid respondent \$1000.00 in advanced attorney fees.

2. On August 31, 2005, respondent appeared at a court hearing with Turretto. After the hearing was over, Turretto wrote to respondent and told her that she was unhappy with the representation, that she wished to have a refund of \$500.00 of the advanced attorney fees and the return of her client documents, and that she was terminating respondent's legal services. Respondent failed to reply, or to return the documents or unearned attorney fees.

Conclusions of Law: By willfully failing to return Turretto's documents to her in a timely manner or at all, respondent failed to promptly release to the client, at the request of the client, all the client papers, in violation of Rule of Professional Conduct 3-700(D)(1). By willfully failing to return the unearned advanced attorney fees to Turretto, promptly or at any time, respondent failed to promptly refund any part of a fee paid in advance that had not been earned, in violation of Rule of Professional Conduct 3-700(D)(2).

Case No. 06-O-10568 (Graves)

1. On August 22, 2001, respondent was employed by Earline Graves ("Graves") to represent her in a marital dissolution matter. Over time, Graves paid respondent \$3813.00 in attorney's fees for her services.

2. Respondent provided legal services for a time, but did not complete the dissolution.

3. Beginning in October 2005 and continuing until June 13, 2006, after the intervention of the State Bar, respondent provided no legal services on the matter. In addition, during that time respondent also failed to respond to Graves' repeated telephone calls and notes left in person at respondent's office, and failed to provide documents to her client as demanded and promised.

Conclusions of Law: By willfully failing to respond to Graves' repeated telephone messages and messages left in person, and willfully failing to respond to Graves' request for documents about her case, from October 2005 to June 2006, respondent failed to respond promptly to reasonable status inquiries of a client, in violation of Business and Professions Code section 6068(m).

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(6), was November 30, 2006.

AGGRAVATING CIRCUMSTANCES.**Facts Supporting Aggravating Circumstances:**

Multiple Acts of Misconduct: The misconduct stipulated to herein involved multiple acts of misconduct, to multiple clients.

MITIGATING CIRCUMSTANCES.**Facts Supporting Mitigating Circumstances.**

No prior discipline: Although the misconduct stipulated to herein is extremely serious, it should be noted that respondent has had no prior record of discipline since being

admitted in December 17, 1991, and the first act of misconduct admitted to herein did not occur until July 2003.

Additional Mitigating Circumstances.

Participation in Lawyer's Assistance Program. On November 7, 2005, respondent contacted the State Bar Lawyer Assistance Program ("LAP") and completed the intake process. On November 14, 2005, respondent signed the evaluation plan whereby she would be evaluated for long-term participation in LAP. On March 7, 2006, respondent signed her long-term participation plan with LAP. She has remained in full compliance with LAP since that date.

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 State Bar Court alternative discipline program contract to be executed between the State Bar Court and Respondent on the captioned case, Respondent must make restitution as follows:

Tina Cates, or the Client Security Fund if it has paid on her behalf, in the principal amount of \$350.00, plus interest at the rate of 10% per annum from January 1, 2005, until paid in full and furnish satisfactory evidence of restitution to the State Bar Court.

Marian Olguin, or the Client Security Fund if it has paid on her behalf, in the principal amount of \$1000.00, plus interest at the rate of 10% per annum from November 1, 2005, until paid in full and furnish satisfactory evidence of restitution to the State Bar Court.

CONDITIONAL RESTITUTION.

06-O-10568 (Graves): In addition to the fixed restitution set forth above, respondent hereby agrees to send a letter to Earline Graves, by overnight courier and in a manner that provides proof of receipt, within 90 days from the date she signs this stipulation, and therein offer to initiate and participate in fee arbitration upon Graves' request regarding Graves' outstanding dispute with respondent over \$3813.00 in advanced fees. Respondent further agrees to initiate and participate in fee arbitration upon Graves' request, and to abide by the final order if any there be. Respondent understands and agrees that her failure to send the letter or confirm that Graves received it, or to initiate or

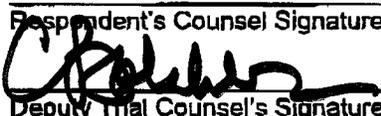
participate in fee arbitration upon Graves' request, or to abide by the final order, if any there be, may constitute a violation of this stipulation.

(Do not write above this line.)

In the Matter of JANENE R. WEBER	Case number(s): 03-O-05188-PEM
---	---------------------------------------

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 Fact, Conclusions of Law and Disposition.

<u>12.5.06</u> Date	 Respondent's Signature	<u>JANENE R. WEBER</u> Print Name
<u>12/14/06</u> Date	 Deputy Trial Counsel's Signature	<u>CYDNEY BATCHELOR</u> Print Name

(Do not write above this line.)

In the Matter Of JANENE R. WEBER	Case Number(s): 03-O-05188-PEM
--	--

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.

Respondent must pay restitution to Jennifer Turreto or the Client Security fund, if it has been paid, in the principal amount of 500, plus interest at 10% per annum from Sept 15, 2005 until paid in full + furnish satisfactory evidence of restitution to the office of Probation.

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.)

March 12, 2007

Date

Car McGillem
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 March 12, 2007, I deposited a true copy of the following document(s):

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

STIPULATION RE FACTS AND CONCLUSIONS OF LAW

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

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

by personally delivering such documents to the following individuals at 180 Howard Street, 6th Floor, San Francisco, California 94105-1639:

**JONATHAN I. ARONS, ESQ.
CYDNEY BATCHELOR, ESQ.**

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **March 12, 2007**


George Hue
Case Administrator
State Bar Court