



State Bar Court of the State Bar of Califor.

Hearing Department:  Los Angeles  San Francisco

PILOT PROGRAM FOR RESPONDENTS WITH SUBSTANCE ABUSE AND MENTAL HEALTH ISSUES

<b>Counsel for the State Bar</b> Cydney Batchelor, #114637 State Bar of California 180 Howard St., 7th Fl. San Francisco, CA 94105 Tele: 415/538-2204	<b>Case Number(s)</b> <p style="text-align: center;"><del>CONFIDENTIAL</del></p> <p style="text-align: center;">04-N-12352-PEM</p> <p style="text-align: center;"><b>FILED</b></p> <p style="text-align: center;">OCT 22 2008</p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>	<b>(For Court use)</b> <p style="text-align: center;"><b>PUBLIC MATTER</b></p> <p style="text-align: center;"><b>LODGED</b></p> <p style="text-align: center;">MAR 09 2005 <i>ef</i></p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<b>Counsel for Respondent</b> Edward O. Lear, #132699 Century Law Group 5200 W. Century Blvd. Los Angeles, CA 90045 Tele: 310/642-6900	<b>Submitted to Pilot Program Judge</b> <p style="text-align: center;">STIPULATION RE FACTS AND CONCLUSIONS OF LAW</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<b>In the Matter of</b> SUZANNE E. KAWASE Bar # 188936 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 5, 1997 (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. Dismissed charge(s)/count(s) are listed under "Dismissals." This stipulation consists of 7 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

(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.

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 (attachment) of this stipulation under specific headings, i.e., "Facts", "Dismissals", "Conclusions of Law."

**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)] See attached
- (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"
- (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/Pattern 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:

None

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 ~~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 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:

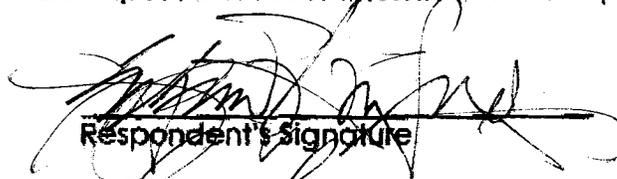
See attached

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

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

12/20/2004  
Date

  
Respondent's Signature

SUZANNE E. KAWASE  
Print Name

12/22/04  
Date

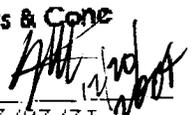
  
Respondent's Counsel Signature

EDWARD O. LEAR  
Print Name

12/27/04  
Date

  
Deputy Trial Counsel's Signature

CYDNEY BATCHELOR  
Print Name



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

IN THE MATTER OF: SUZANNE E. KAWASE

CASE NUMBER(S): 04-N-12352

**FACTS AND CONCLUSIONS OF LAW.**

Respondent admits that the following facts are true and that she is culpable of the following violation of the State Bar Act:

**Case No. 04-N-12352**

**Facts:** Effective April 15, 2004, the California Supreme Court issued its Order No. S110691 ( the "rule 955 order" or "the order"). The rule 955 order required Respondent to comply with rule 955 of the California Rules of Court, by performing the acts specified in subdivisions (a) and (c) within 30 and 40 days, respectively. Accordingly, Respondent was required to file her rule 955(c) affidavit on or before May 25, 2004. However, she failed to comply until August 20, 2004.

**Conclusions of Law:** By willfully failing to file a declaration of compliance under rule 955(c) in a timely manner, Respondent failed to comply with a court order, in violation of Business and Professions Code section 6103.

**PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A.(6), was November 17, 2004.

**AGGRAVATING CIRCUMSTANCES.**

**Prior Record of Discipline.** Respondent has disciplined once, and has had her probation in that case revoked. First, effective January 6, 2003, Respondent was disciplined in case number S110691. She stipulated to 30 days actual suspension, one year stayed suspension, restitution, and two years probation. Second, Respondent's probation was

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revoked effective April 15, 2004 in case number 03-PM-2730. Her probation was revoked for failing to file proof of restitution and failing to file her quarterly reports. Respondent failed to appear at the probation revocation hearing, and she was suspended for one year and until she completes restitution. She was also ordered to comply with rule 955(a) and rule 955(c). The probation revocation matter gave rise to the proceedings here when Respondent failed to comply with rule 955(c).

#### MITIGATING CIRCUMSTANCES.

Cooperation with the State Bar: Through her attorney, Respondent has been completely cooperative with the State Bar in resolving this case.

#### **Additional Mitigating Circumstance:**

Participation in Lawyer's Assistance Program: On September 29, 2004, Respondent voluntarily signed a pre-enrollment assessment agreement with the State Bar's Lawyer Assistance Program (LAP). Respondent was then assessed and monitored for a period of time by the LAP. At the conclusion of the LAP evaluation, Respondent met with its Evaluation Committee on November 17, 2004 and was accepted into the program. She is in the process of signing a participation agreement which will memorialize her 5 year commitment to the program. She has remained in full compliance with LAP ever since her first contact.

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ORDER

Finding this stipulation to be fair to the parties, 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.

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; 2) this court modifies or further modifies the approved stipulation; or 3) Respondent is not accepted for participation in the Pilot Program or does not sign the Pilot Program Contract. (See rules 135(b) and 802(b), Rules of Procedure.)

The effective date of the disposition is the effective date of the Supreme Court order herein, normally 30 days after the file date of the Supreme Court Order. (See rule 953(a), California Rules of Court.)

March 9, 2005  
Date

Pat McElroy  
Judge of the State Bar Court

*[Handwritten signature]*

**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 9, 2005 , I deposited a true copy of the following document(s):

**DECISION RE ALTERNATIVE RECOMMENDATIONS FOR DEGREE OF DISCIPLINE**

**STIPULATION RE FACTS AND CONCLUSIONS OF LAW**

**CONTRACT AND WAIVER FOR PARTICIPATION IN THE STATE BAR COURT'S PROGRAM FOR RESPONDENTS WITH SUBSTANCES ABUSE OR MENTAL HEALTH ISSUES**

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

by personal delivery as follows:

**EDWARD O. LEAR**  
**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:

**CYDNEY BATCHELOR, Enforcement, San Francisco**

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **March 9, 2005**



**George Hue**  
Case Administrator  
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 January 15, 2009, I deposited a true copy of the following document(s):

DECISION AND ORDER SEALING DOCUMENTS

STIPULATION RE FACTS AND CONCLUSIONS OF LAW

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:

SUZANNE E. CARVER  
CARVER LAW OFFICES  
PO BOX 4041  
MONTEREY, CA 93942

- by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:

- by overnight mail at , California, addressed as follows:

- By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

- 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 January 15, 2009.

  
George Hue  
Case Administrator  
State Bar Court