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State Bar Court of California Hearing Department <input checked="" type="checkbox"/> Los Angeles <input type="checkbox"/> San Francisco		
Counsel for the State Bar THE STATE BAR OF CALIFORNIA OFFICE OF THE CHIEF TRIAL COUNSEL DIANE J. MEYERS DEPUTY TRIAL COUNSEL 1149 South Hill Street Los Angeles, CA 90015, 10th Fl. Bar # 146643 Telephone: (213) 765-1496	Case number(s) 04-0-12325 04-0-13274	(for Court's use) <div style="text-align: center; font-size: 24pt; font-weight: bold;">FILED</div> <div style="text-align: center; font-size: 18pt; font-weight: bold;">MAY 11 2005</div> <div style="text-align: center; font-size: 12pt; font-weight: bold;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</div>
<input type="checkbox"/> Counsel for Respondent <input checked="" type="checkbox"/> In Pro Per, Respondent Wendy Ann McGhee 728 Monterey Avenue Chula Vista, CA 91910-6318 Bar # 97028	PUBLIC MATTER	
In the Matter of Wendy Ann McGhee Bar # 97028 A Member of the State Bar of California (Respondent)	Submitted to <input type="checkbox"/> assigned judge <input checked="" type="checkbox"/> settlement judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <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 January 19, 1981
(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 20 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) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) 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.

(Do not write above this line.)

(8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):

- until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
- costs to be paid in equal amounts prior to February 1 for the following membership years:
- (hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
- costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
- costs entirely waived

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 97-0-18514; 98-0-01261, and 98-0-03226 (S083947)

(b) Date prior discipline effective April 8, 2000.

(c) Rules of Professional Conduct/ State Bar Act violations: Rule 3-110(A) and rule 3-700(D)(2)

of the Rules of Professional Conduct in three matters; and rule 3-700(A)(2)

of the Rules of Professional Conduct in one matter.

(d) Degree of prior discipline One year stayed suspension, three years probation.

(e) If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline."
See attachment at p.61, "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.

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- (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 attachment to stipulation at pp. 6i and 6j.
- (8) **No aggravating circumstances are involved.**

Additional aggravating circumstances:

See attachment to Stipulation at p.6j.

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.
- (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.

(Do not write above this line.)

- (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 attachment to stipulation at p.6J and 6L.

D. Discipline:

(1) **Stayed Suspension:**

- (a) Respondent must be suspended from the practice of law for a period of three years
- 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 as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following: _____
- (b) The above-referenced suspension is stayed.

(2) **Probation:**

Respondent must be placed on probation for a period of three years, which will commence upon the effective date of the Supreme Court order in this matter.
(See rule 953, Calif. Rules of Ct.)

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(3) **Actual Suspension:**

(a) Respondent must be actually suspended from the practice of law in the State of California for a period of 60 days to run consecutive to discipline imposed against Respondent in case numbers 03-0-02805 and 03-0-04657 (See also p. 6F. (5)).

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 as set forth in the Financial Conditions form attached to this stipulation.

iii. and until Respondent does the following: _____

E. Additional Conditions of Probation:

(1) If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.

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

(3) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), 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.

(4) Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.

(5) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must 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. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must 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.

(6) Respondent must be assigned a probation monitor. Respondent must 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 must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.

(7) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation 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.

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- (8) Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation 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. Reason: See attachment at p. 6j.
- (9) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) The following conditions are attached hereto and incorporated:
- | | |
|--|--|
| <input checked="" type="checkbox"/> Substance Abuse Conditions | <input checked="" type="checkbox"/> Law Office Management Conditions |
| <input checked="" type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) Multistate Professional Responsibility Examination: Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. 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. Reason: See attachment at p. 6k.
- (2) Rule 955, California Rules of Court: Respondent must comply with the requirements of rule 955, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) Conditional Rule 955, California Rules of Court: If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 955, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) Credit for Interim Suspension [conviction referral cases only]: Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension: _____
- (5) Other Conditions:
- To the extent possible, the parties respectfully request that the 60-day actual suspension stipulated by the parties become effective on August 27, 2005, so that there will be no interruption between the 90-day actual suspension imposed by S131184 and the actual suspension imposed in this matter by the California Supreme Court, in any.
- Pursuant to rule 251, Rules of Procedure of the State Bar, the parties waive review by the Review Department and request that the disciplinary recommendation be transmitted to the Supreme Court without delay.

(Do not write above this line.)

In the Matter of WENDY ANN MCGHEE	Case Number(s): 04-0-12325, et al.
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Substance Abuse Conditions

a. Respondent must abstain from use of any alcoholic beverages, and shall not use or possess any narcotics, dangerous or restricted drugs, controlled substances, marijuana, or associated paraphernalia, except with a valid prescription.

b. Respondent must attend at least Four meetings per month of:

Alcoholics Anonymous

Narcotics Anonymous

The Other Bar

Other program _____

As a separate reporting requirement, Respondent must provide to the Office of Probation satisfactory proof of attendance during each month, on or before the tenth (10th) day of the following month, during the condition or probation period.

c. Respondent must select a licensed medical laboratory approved by the Office of Probation. Respondent must furnish to the laboratory blood and/or urine samples as may be required to show that Respondent has abstained from alcohol and/or drugs. The samples must be furnished to the laboratory in such a manner as may be specified by the laboratory to ensure specimen integrity. Respondent must cause the laboratory to provide to the Office of Probation, at Respondent's expense, a screening report on or before the tenth day of each month of the condition or probation period, containing an analysis of Respondent's blood and/or urine obtained not more than ten (10) days previously.

d. Respondent must maintain with the Office of Probation a current address and a current telephone number at which Respondent can be reached. Respondent must return any call from the Office of Probation concerning testing of Respondent's blood or urine within twelve (12) hours. For good cause, the Office of Probation may require Respondent to deliver Respondent's urine and/or blood sample(s) for additional reports to the laboratory described above no later than six hours after actual notice to respondent that the Office of Probation requires an additional screening report.

e. Upon the request of the Office of Probation, Respondent must provide the Office of Probation with medical waivers and access to all of Respondent's medical records. Revocation of any medical waiver is a violation of this condition. Any medical records obtained by the Office of Probation are confidential and no information concerning them or their contents will be given to anyone except members of the Office of Probation, Office of the Chief Trial Counsel, and the State Bar Court who are directly involved with maintaining, enforcing or adjudicating this condition.

(Substance Abuse Conditions form approved by SBC Executive Committee 10/16/2000. Revised 12/16/2004.)

(Do not write above this line.)

In the Matter of WENDY ANN MCGHEE	Case Number(s): 04-0-12325, et al.
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Medical Conditions

- a. Respondent must obtain psychiatric or psychological help/ treatment from a duly licensed psychiatrist, psychologist, or clinical social worker at respondent's own expense a minimum of 1 times ^{every six months} ~~per month~~ and must furnish evidence to the Office of Probation that Respondent is so complying with each quarterly report. Help/treatment should commence immediately, and in any event, no later than thirty (30) days after the effective date of the discipline in this matter. Treatment must continue for ___ days or ___ months or ___ years or, the period of probation or until a motion to modify this condition is granted and that ruling becomes final.

If the treating psychiatrist, psychologist, or clinical social worker determines that there has been a substantial change in Respondent's condition, Respondent or Office of the Chief Trial Counsel may file a motion for modification of this condition with the Hearing Department of the State Bar Court, pursuant to rule 550 of the Rules of Procedure of the State Bar. The motion must be supported by a written statement from the psychiatrist, psychologist, or clinical social worker, by affidavit or under penalty of perjury, in support of the proposed modification.

- b. Upon the request of the Office of Probation, Respondent must provide the Office of Probation with medical waivers and access to all of Respondent's medical records. Revocation of any medical waiver is a violation of this condition. Any medical records obtained by the Office of Probation are confidential and no information concerning them or their contents will be given to anyone except members of the Office of Probation, Office of the Chief Trial Counsel, and the State Bar Court, who are directly involved with maintaining, enforcing or adjudicating this condition.

(Do not write above this line.)

In the Matter of WENDY ANN MCGHEE	Case Number(s): 04-0-12325, et al.
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Law Office Management Conditions

- a. Within 30 days/ _____ months/ _____ years of the effective date of the discipline herein, Respondent must develop a law office management/ organization plan, which must be approved by the Office of Probation. This plan must include procedures to (1) send periodic reports to clients; (2) document telephone messages received and sent; (3) maintain files; (4) meet deadlines; (5) withdraw as attorney, whether of record or not, when clients cannot be contacted or located; (6) train and supervise support personnel; and (7) address any subject area or deficiency that caused or contributed to Respondent's misconduct in the current proceeding.
- b. Within _____ days/ _____ months 1 years of the effective date of the discipline herein, Respondent must submit to the Office of Probation satisfactory evidence of completion of no less than 6 hours of Minimum Continuing Legal Education (MCLE) approved courses in law office management, ~~attorney-client relations and/or general legal ethics~~. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for attending these courses (Rule 3201, Rules of Procedure of the State Bar.)
- c. Within 30 days of the effective date of the discipline, Respondent must join the Law Practice Management and Technology Section of the State Bar of California and pay the dues and costs of enrollment for _____ year(s). Respondent must furnish satisfactory evidence of membership in the section to the Office of Probation of the State Bar of California in the first report required.
- d. Within one year of the effective date of the discipline herein, Respondent must submit to the Office of Probation satisfactory evidence of completion of no less than six hours of minimum Continuing Legal Education (MCLE) approved courses in family law. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for attending these courses (Rule 3201, Rules of Procedure of the State Bar.)

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Wendy McGhee

CASE NUMBER(S): 04-O-12325, et al.

FACTS AND CONCLUSIONS OF LAW.

A. Case No. 04-O-12325

Facts

1. On or about March 27, 2004, Roxanne Esposito ("Esposito") hired Respondent to obtain guardianship of her grandchildren. On or about that date, Esposito discussed with Respondent that time was of the essence, and Respondent assured Esposito that the papers would be ready for Esposito's signature on March 29, 2004. Also on or about that date, Esposito paid Respondent \$1,500 as advanced attorney fees. Respondent did not provide Esposito with a written fee agreement.

2. Between on or about March 29, 2004 and April 6, 2004, Respondent scheduled and cancelled at least five meetings with Esposito.

3. On or about April 6, 2004, Esposito met with Respondent to sign three documents. Respondent asked Esposito to e-mail Respondent a declaration, which would be the last document needed to obtain a hearing. Esposito did so and requested that Respondent confirm her receipt of the e-mail. Although Respondent received the e-mail, she did not confirm its receipt.

4. On or about April 8, 2004, Esposito sent Respondent two e-mails requesting the status of her matter and noting that Respondent had not returned the two telephone messages Esposito had left for Respondent. Although Respondent received the e-mail and telephone calls, Respondent failed to respond in any manner.

5. On or about April 11, 2004, Esposito sent Respondent an e-mail requesting the status of her matter and noting that Respondent had not responded to a telephone message Esposito had left for Respondent.

6. On or about April 12, 2004 Respondent sent Esposito an e-mail asking for the address and telephone number for the paternal grandparents, although Esposito had already provided as much information as she had.

7. On or about April 12, 2004, Esposito responded to Respondent's e-mail and set forth information indicating that time was of the essence. Although Respondent received the e-mail, she failed to respond in any manner.

8. On or about April 13, 2004, Esposito sent an e-mail to Respondent expressing her concern about the lack of progress on her matter and stated that she would hire another attorney if the delays continued. Although Respondent received the e-mail, and Esposito requested an immediate response, Respondent failed to respond in any manner.

9. On or about April 15, 2004, Esposito sent an e-mail to Respondent informing her that the father had served papers on the mother to obtain custody of Esposito's grandchildren. Esposito stated that if she did not receive information from Respondent that day, she would have to take action. Although Respondent received the e-mail, she failed to respond in any manner.

10. On or about April 19, 2004, Esposito sent an e-mail to Respondent terminating her services and requesting a full refund and the return of her file. Although Respondent received the e-mail, she failed to respond in any manner.

11. On or about April 21, 2004, Esposito sent an e-mail and a letter to Respondent again requesting a full refund and her file. Respondent did not release Esposito's file until in or about November 2004.

12. On or about April 23, 2004, Respondent sent Esposito an e-mail stating that Respondent would provide an accounting and bill for Esposito. Respondent did not earn any of the advanced fees paid by Esposito.

13. At no time did Respondent file anything on Esposito's behalf and did not provide any services of value to Esposito. Esposito hired new counsel who filed the necessary paperwork on or about May 7, 2004.

14. On or about February 3, 2005, Respondent refunded \$1,500 to Esposito, after the State Bar of California ("State Bar") contacted Respondent by letter, dated August 10, 2004, about Esposito's State Bar complaint against Respondent.

Conclusions of Law

15. By failing to file anything on Esposito's behalf when Respondent was aware that time was of the essence, Respondent intentionally failed to perform legal services with competence in wilful violation of rule 3-110(A) of the Rules of Professional Conduct.

16. By not responding to Esposito's e-mail and telephone calls when Respondent was aware that time was of the essence, Respondent failed to promptly respond to her client's reasonable status inquiries in wilful violation of section 6068(m) of the Business and Professions Code.

17. By not releasing Esposito's file until in or about November 2004, Respondent failed to release promptly, at the request of the client and upon termination of her employment, all her client's papers and property in wilful violation of rule 3-700(D)(1) of the Rules of Professional Conduct.

18. By not returning the \$1,500 advance fee to Esposito until on or about February 3, 2005, Respondent failed to promptly refund an unearned fee in wilful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

B. Case No. 04-O-13274

Facts

1. On or about September 19, 2002, Elma Kelley ("Kelley") hired Respondent to represent her in a dissolution of marriage, child custody, and child support matter filed by Kelley's spouse on August 20, 2002. On or about that date, Kelley paid Respondent \$1,000 as advanced legal fees, and Respondent informed Kelley that the matter should be complete within three months. Respondent did not provide Kelley with a written fee agreement.

2. Beginning in or about September 2002, Kelley telephoned Respondent's office approximately two to three times each week requesting the status on her matter. Although Respondent did not speak to her each time, on the occasions where they did speak, Respondent informed Kelley that her matter would be complete in about a month.

3. In or about 2003, Respondent moved her office and refused to provide Kelley with her new address. Respondent's telephone number remained the same.

4. On or about May 16, 2003, Respondent requested, and Kelley paid, an additional \$1,500. Kelley was told that the money was needed to "facilitate the processing" of Kelley's matter.

5. On June 12, 2003, a judgment of divorce was entered in Kelley's matter.

6. On or about June 14, 2003, Respondent told Kelley that Respondent would go to Kelley's home to obtain her signature on documents. Respondent failed to do so.

7. On or about September 27, 2004, Respondent went to Kelley's home. Respondent informed Kelley that Respondent had not yet prepared any documents, but that she would do so immediately and telephone Kelley the next day. Respondent failed to telephone Kelley the next day. Also on or about September 27, 2004, Kelley requested her file. Respondent stated there was nothing in the file because Respondent had not prepared any documents.

8. On or about November 28, 2004, Respondent telephoned Kelley and informed Kelley that Respondent would come to her home the next day to obtain Kelley's signature on some documents. Respondent never brought the documents nor did she telephone Kelley.

9. Respondent never filed any documents in Kelley's matter. Respondent did not provide services of any value to Kelley.

10. Respondent did not earn any of the advanced fees paid by Kelley. Respondent refunded \$2,500 to Kelley on or about February 3, 2005, after the State Bar of California ("State Bar") contacted Respondent by letter, dated October 5, 2004, about Kelley's State Bar complaint against Respondent.

Conclusions of Law

11. By not preparing or filing any documents in Kelley's matter, by not contacting Kelley when Respondent stated she would do so, and by not providing Kelley with Respondent's new address, Respondent intentionally failed to provide legal services with competence in wilful violation of rule 3-110(A) of the Rules of Professional Conduct.

12. By not returning the \$2,500 advance fee to Kelley until on or about February 3, 2005, Respondent failed to promptly refund an unearned fee in wilful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

B. Case No. 04-O-13274 (continued)

Facts

13. Paragraphs B.1. through B.10. are incorporated by reference.

14. On or about June 16, 2004, the State Bar opened an investigation, case number 04-O-13274, pursuant to a complaint against Respondent by Kelley regarding Respondent's handling of Kelley's matter.

15. On or about December 1, 2004, State Bar Investigator Leslie Escoto ("Escoto") sent a letter to Respondent regarding Kelley's complaint. On or about December 14, 2004, Escoto sent another letter to Respondent regarding the Kelley's complaint.

16. Both the December 1, 2004 and December 14, 2004 letters were placed in sealed envelopes correctly addressed to Respondent at her State Bar membership records address. The letters were properly mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service ("USPS") in the ordinary course of business on or about the date on each letter. The USPS did not return Escoto's letters as undeliverable or for any other reason.

17. In Escoto's letters, she requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in connection with Kelley's complaint. Respondent did not respond to Escoto's letters or otherwise communicate with Escoto.

Conclusion of Law

18. By not providing a written response to Kelley's complaint or otherwise cooperating in the investigation of Kelley's complaint, Respondent failed to cooperate and participate in a disciplinary investigation pending against her in wilful violation of section 6068(i) of the Business and Professions Code.

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was May 4, 2005.

AGGRAVATING CIRCUMSTANCES.

PRIOR DISCIPLINE (continued from p. 2).

- (2) (a) Case numbers: 03-O-02805 and 03-O-04657 (S131184).
- (2) (b) Effective date of discipline: May 28, 2005.
- (2) (c) Violations: rule 3-110(A), Rules of Professional Conduct in two client matters; and Business and Professions Code sections 6068(m) and 6106 in one client matter.
- (2) (d) Degree of discipline: Three-year suspension and until Respondent complies with standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct, stayed; three-year probation; and 90-day actual suspension.

FACTS SUPPORTING AGGRAVATING CIRCUMSTANCES.

Multiple Acts/Pattern

Respondent committed multiple acts of misconduct by wilfully violating rules 3-110(A) and 3-700(D)(2) of the Rules of Professional Conduct in two matters and rule 3-700(D)(1) in one matter; and wilfully violating sections 6068(m) and 6068(i) of the Business and Professions Code in one matter. [Standard 1.2(b)(ii)]

Respondent's misconduct in the present matters coupled with her prior misconduct in case numbers 97-O-18514, 98-O-01261, 98-O-03226, 03-O-02805, and 03-O-04657, demonstrates a pattern of misconduct. In the present matters, Respondent violated rules 3-110(A) and 3-700(D)(2) of the Rules of Professional Conduct (hereinafter referred to as "rule(s)"). Respondent committed similar misconduct in her prior matters as follows:

Case number 97-O-018514: Respondent violated rules 3-110(A) and 3-700(D)(2) in 1997;

Case number 98-O-01261: Respondent violated rules 3-110(A) and 3-700(D)(2) from 1997 to 1998;

Case number 98-O-03226: Respondent violated rules 3-110(A) and 3-700(D)(2) in 1997;

Case number 03-O-02805: Respondent violated rule 3-110(A) from 2000 to 2002; and,

Case number 03-O-04657: Respondent violated rule 3-110(A) in 2003.

ADDITIONAL AGGRAVATING CIRCUMSTANCES.

Respondent was on disciplinary probation pursuant to Supreme Court Order S083947 at the time of the misconduct in the Kelley matter. In the Matter of Bouyer (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 888.

MITIGATING CIRCUMSTANCES.

ADDITIONAL MITIGATING CIRCUMSTANCES.

Although Respondent did not cooperate in the State Bar's investigation of case number 04-O-13274, she has been cooperative in the State Bar's proceedings since the filing of the Notice of Disciplinary Charges.

Since Respondent's prior misconduct in case numbers 97-O-18514, 98-O-01261, and 98-O-03226 which involved her substance abuse, Respondent has remained sober for over five years. Although Respondent is no longer subject to the substance abuse probation conditions imposed in case numbers 97-O-18514, 98-O-01261, and 98-O-03226, Respondent voluntarily and regularly attends Alcoholics Anonymous and Narcotics Anonymous meetings, and sponsors other women with substance abuse histories as part of her commitment to sobriety. Also, although Respondent is no longer subject to the mental health probation conditions imposed in case numbers 97-O-18514, 98-O-01261, and 98-O-03226, Respondent continues with her mental health treatment which includes taking anti-depressant medications.

The parties agree that the court may consider Respondent's "Mitigation Statement", attached as page 61, to determine the level of discipline to be imposed in this matter.

STATE BAR ETHICS SCHOOL EXCLUSION.

It is not recommended that respondent attend State Bar Ethics School since on April 28, 2005, she was ordered to attend Ethics School in connection with case numbers 03-O-02805 and 03-O-04657 (S131184).

MULTISTATE PROFESSIONAL RESPONSIBILITY EXAMINATION EXCLUSION.

It is recommended that respondent not be required to take the Multistate Professional Responsibility Examination because on April 28, 2005, she was ordered to take and pass the examination in connection with case numbers 03-O-02805 and 03-O-04657 (S131184).

6k

Page #

Attachment Page 8

MITIGATION STATEMENT

In Re Wendy McGhee a member of the State Bar
Case Nos: # 03002805, #03 004657

I had a bad time after my husband died and I developed an alcohol problem that caused my law practice to close down. I got sober in 1999 and began practicing law again in 2000. A friend of mine tried to help me by getting started back in Vista California where my husband and I used to practice. I live in Chula Vista now and that office was 50 miles from my home. My children were still young and uncooperative. I made several gross miscalculations in setting up my life this way. One was that I still had friends in Vista. I had made more enemies with my past personal behavior than I knew. I also had no support on the family front. My two older children quit going to school because I wasn't there and disrupted anything I was trying to do.

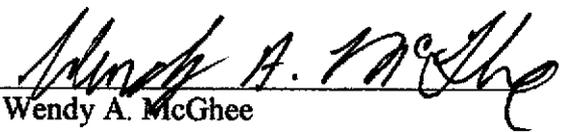
Every time things would seem to calm down another child would be with the police or kicked out of school. During this time I had no office support. The secretary my friend had hid my work and lied to me about case status. She was very young and her husband was in Iraq so we made excuses. I got overwhelmed and was not following through on my work. I should have asked for help from the local bar but I kept thinking each event with the children would be the last. I also got a little too involve in my 12th step work. I had women living in our home trying to get them sober and that was a bad idea.

My third son was arrested for going in the neighbors' house and taking their car for a joy ride last May. He had to be on close supervision and I basically had to be here 24 hours a day. He and I have gotten counseling and things are a lot better. I am very sorry that my clients suffered because of these circumstances and I know to ask for help from the local bar if things were ever to get out of hand again.

I have very different expectations when it comes to business now and I am sure that I can handle all the stresses without compromising my cases.

This statement is made under the penalty of perjury under the laws of the State of California.

Dated: 5/3/05

Signed: 
Wendy A. McGhee

(Do not write above this line.)

In the Matter of WENDY ANN MCGHEE	Case number(s): 04-0-12325 et al.
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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, Conclusions of Law and Disposition.

Date 5/5/05 Respondent's signature  Print name WENDY ANN MCGHEE

Date _____ Respondent's Counsel's signature _____ Print name _____

Date 5/6/05 Deputy Trial Counsel's signature  Print name DIANE J. MEYERS

(Do not write above this line.)

In the Matter of WENDY ANN MCGHEE	Case number(s): 04-O-12325 et al.
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ORDER

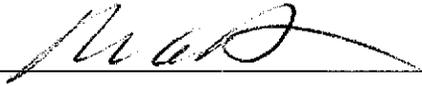
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- The 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.
- All Hearing dates are vacated.

Page 6, Section 8: Check Box - No Ethics School Recommended
Page 6c, Section b: Check Box

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.)

5/10/05
Date


RICHARD A. PLATEL
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 Los Angeles, on May 11, 2005, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION
AND ORDER APPROVING, filed May 11, 2005**

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

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

**WENDY ANN MCGHEE
ATTORNEY AT LAW
728 MONTEREY AVE
CHULA VISTA, CA 91910 6318**

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

Diane J. Meyers, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on May 11, 2005.


Milagro del R. Salmeron
Case Administrator
State Bar Court