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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 Agustin Hernandez Deputy Trial Counsel 1149 South Hill Street Los Angeles, California 90015-2299 Telephone: (213) 765-1713 Bar # 161625	Case number(s) 04-O-14198	(for Court's use) PUBLIC MATTER FILED  JUN 30 2006 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
<input type="checkbox"/> Counsel for Respondent <input type="checkbox"/> In Pro Per, Respondent Gloria S. Weil-Herrera 523 W. 6 th St. #377 Los Angeles, CA 90017 213-629-8322 Bar # 103988	Submitted to <input type="checkbox"/> assigned judge <input checked="" type="checkbox"/> settlement judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING REPROVAL <input type="checkbox"/> PRIVATE <input checked="" type="checkbox"/> PUBLIC <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of Gloria S. Weil-Herrera Bar # 103988 A Member of the State Bar of California (Respondent)		

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted June 10, 1982
(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 12 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):

- (a) costs added to membership fee for calendar year following effective date of discipline (public reproof)
- (b) case ineligible for costs (private reproof)
- (c) costs to be paid in equal amounts for the following membership years:

_____ (hardship, special circumstances or other good cause per rule 284, Rules of Procedure)

- (d) costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
- (e) costs entirely waived

(9) The parties understand that:

- (a) A private reproof imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquires and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
- (b) A private reproof imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
- (c) A public reproof imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

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 87-0-11648 (Consolidated with 91-0-00860)

(b) Date prior discipline effective September 3, 1991

(c) Rules of Professional Conduct/ State Bar Act violations: Business & Professions Code, Section 6068(m); Former Rules Of Professional Conduct 2-111(A)(2) and (3), and 6101(A)(2) [new Rules 3-700(B)(1) and (2), and 3-110(A)]; and current Rule 3-500.

(d) Degree of prior discipline Private Reproof

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- (e) If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "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 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.
- (8) No aggravating circumstances are involved.

Additional aggravating circumstances:

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.

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- (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 ATTACHMENT.

(Do not write above this line.)

D. Discipline:

- (1) Private reproval (check applicable conditions, if any, below)
 - (a) Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).
 - (b) Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).

or

- (2) Public reproval (check applicable conditions, if any, below)

E. Conditions Attached to Reproval:

- (1) Respondent must comply with the conditions attached to the reproval for a period of One Year
- (2) During the condition period attached to the reproval, 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 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 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 condition period attached to the reproval. 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 the reproval during the preceding calendar quarter. Respondent must also state in each report 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 thirty (30) days, that report must be submitted on the next following 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 condition period and no later than the last day of the condition period.

- (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 such reports as may be requested, in addition to quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the monitor.

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- (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 conditions attached to the reprobation.
- (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 of the Ethics School and passage of the test given at the end of that session.
- No Ethics School ordered. Reason: _____
- (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 required to be filed with the Office of Probation.
- (10) 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 within one year of the effective date of the reprobation.
- No MPRE ordered. Reason: Not necessary for protection of public.
- (11) The following conditions are attached hereto and incorporated:
- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: GLORIA S. WEIL-HERRERA

CASE NUMBER: 04-O-14198

FACTS AND CONCLUSIONS OF LAW.

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

FACTS.

1. Prior to employing Respondent, Blanca Ramirez ("Ramirez") was an employee at World Wide Immigration Services ("World Wide"). World Wide was an immigration services provider.
2. In or about April 2001, World Wide filed an application for asylum on behalf of Ramirez with the Immigration and Naturalization Service ("INS").
3. On or about July 30, 2001, the INS scheduled a hearing on a removal proceeding to be held in Immigration Court on October 11, 2001.
4. On or about October 5, 2001, non-attorney Jose Mejia ("Mejia"), one of the owners of World Wide, contacted Respondent to have her represent Ramirez at the October 11, 2001 removal proceeding. Mejia paid Respondent \$500 to appear at the removal proceeding on behalf of Ramirez. Pursuant to World Wide and Respondent's agreement, World Wide would prepare all of the necessary pleadings.
5. On or about October 11, 2001, Respondent appeared at the removal proceeding in Immigration Court along with Ramirez. During the hearing on the removal proceeding, Respondent and Ramirez withdrew asylum petition and requested relief under the Nicaraguan Adjustment and Central American Relief Act ("NACARA"). The court ordered that the written application for relief under NACARA be filed with the court on or before December 21, 2001, and scheduled a hearing on the merits for August 21, 2002. During this hearing, with Ramirez and an official court interpreter present, the judge of the Immigration Court specifically stated that if the written application was not filed by that date, the court would deem her application abandoned.

6. On or about October 11, 2001, immediately after the removal proceeding, Respondent sent Ramirez a letter confirming that the Immigration Court ordered that the written application for relief under NACARA had to be filed with the court on or before December 21, 2001, and that it had scheduled a hearing on the merits for August 21, 2002. In this letter, Respondent also confirmed that Ramirez would ensure that World Wide would prepare the written application and file it with the Immigration Court. In this letter, Respondent also warned Ramirez that if she did not have the written application filed with the court by December 21, 2001, the court would deem her application abandoned.

7. Thereafter, Respondent followed up with Ramirez and World Wide to ensure that the written application for relief under NACARA was being prepared. World Wide told Respondent that they had prepared and filed the written application with the Immigration Court. Furthermore, Ramirez even provided Respondent with a copy of the written application which had been stamped by the Immigration Court indicating that the filing fees had been paid on October 16, 2001. However, although the application had been stamped by the court reflecting that the fees had been paid, it had not actually been filed with the Immigration Court.

8. Thereafter, Ramirez stopped working at World Wide and Respondent was unable to communicate with her because she did not have her current contact information.

9. At no time did Respondent, Ramirez or World Wide file a written application for relief under NACARA on behalf of Ramirez.

10. On or about January 14, 2002, the Immigration Court denied Ramirez' request for relief under NACARA because she had failed to file the written application with the court by December 21, 2001. On this date, the Immigration Court served notice of its January 14, 2002 order on Respondent along with notice that any appeals must be filed with the Board of Immigration Appeals ("BIA") within 30 days.

11. Since Respondent had been unable to reach Ramirez because she had left World Wide and not provided Respondent with new contact information, Respondent was unable to determine if Ramirez wanted to appeal the Immigration Court's January 14, 2002 order. In abundance of caution, Respondent decided to file an appeal on behalf of Ramirez to preserve her rights. Unfortunately, however, due to a staff's error, the appeal was filed with the BIA one day late, and ultimately dismissed as a result thereof. Respondent had until February 13, 2002, to file an appeal on behalf of Ramirez. On February 12, 2002, Respondent prepared the appeal and instructed her staff to send it to the BIA via FedEx on this day so that it would be received and filed with the BIA on the due date of February 13, 2002. For unknown reasons, Respondent's staff did not submit the appeal to FedEx until February 13, 2002, the day that it was due at the BIA. Consequently, Ramirez' appeal was not received by the BIA until February 14, 2002, one day late.

12. On or about October 7, 2003, Ramirez' appeal was dismissed by the BIA because it was not filed on or before February 13, 2002.

13. Ramirez's case is still pending in Immigration Court.

CONCLUSIONS OF LAW.

14. By failing to prepare and file the written application for relief under NACARA; by relying on Ramirez and/or World Wide to prepare and file the written application for relief under NACARA; and by failing to adequately supervise her staff to ensure that the appeal was timely filed, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in violation of Rules of Professional Conduct, rule 3-110(A).

MITIGATING CIRCUMSTANCES.

FACTS SUPPORTING MITIGATING CIRCUMSTANCES.

Respondent acknowledged her misconduct and voluntarily implemented new office policies and procedures to prevent the recurrence of this type of misconduct, even before the State Bar's involvement.

In an effort to prevent future similar misconduct, on or about February 7, 2003, Respondent sent letters by certified mail to all of her immigration clients informing them that it was necessary for her office to prepare and review all documents related to their case. In this letter, Respondent asked each client to call and make an appointment to meet with her and discuss their case within two weeks. Respondent also stated that if the clients did not meet with her to address this issue, she would withdraw as their attorney.

Respondent sent these letters to her clients after reading the State Bar Court's Valinoti decision, but before Ramirez even filed her complaint with the State Bar. *In re Valinoti*, Not reported in Cal.Rptr.2d, 2002 WL 31907316 (Cal.Bar Ct.), 2003 Daily Journal D.A.R. 167, 03 Cal. Daily Op. Serv. 132, 4 Cal. State Bar Ct. Rptr. 498.

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 2.4(b), Title IV, Standards for Attorney Sanctions for Professional Misconduct provides that "[c]ulpability of a member of wilfully failing to perform services in an individual matter or matters not demonstrating a pattern of misconduct or culpability of a member of wilfully failing to communicate with a client shall result in reproof or suspension depending upon the extent of the misconduct and the degree of harm to the client."

A respondent received a private reproof for failure to perform legal services with competence in violation of former Rule 6-101(A)(2) of the Rules of Professional Conduct [now governed by Rule 3-110(A)]. Respondent failed to ensure that his client was aware of a state inheritance tax that was assessed against her which resulted in a judgment being entered against her property. In mitigation, the court considered that respondent offered to pay the accrued interest attributable to his oversight (however, he had not paid it and restitution was ordered with the private reproof). The court also considered that respondent had voluntarily improved his office procedures to prevent the recurrence of this misconduct. The court also considered that respondent was candid, cooperative and had no prior record of discipline. *Matter of Respondent G* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 175.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of May 9, 2006, the estimated prosecution costs in this matter are approximately \$1,983. Respondent acknowledges that this figure is an estimate only and that it does not include State Bar Court costs which will be included in any final cost assessment. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was May 9, 2006.

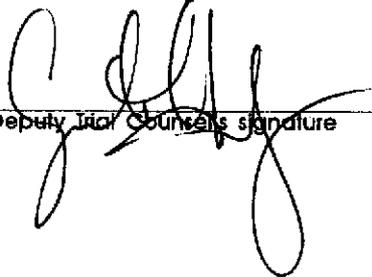
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In the Matter of GLORIA S. WIEL-HERRERA	Case number(s): 04-0-14198
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SIGNATURE OF THE PARTIES

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.

<u>6/1/06</u> Date	 Respondent's signature	<u>Gloria Weil-Herrera</u> Print name
<u>6/2/06</u> Date	 Deputy Trial Counsel's signature	<u>AGUSTIN HERNANDEZ</u> Print name

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In the Matter of GLORIA S. WEIL-HERRERA	Case number(s): 04-0-14198
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ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproval, 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 REPROVAL IMPOSED.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- All court dates in the Hearing Department are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 125(b), Rules of Procedure.) Otherwise the stipulation shall be effective 15 days after service of this order.

Failure to comply with any conditions attached to this reproval may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.

Date June 30, 2006

Pat McElroy
Judge of the State Bar Court

CERTIFICATE OF SERVICE
[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on June 30, 2006, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION
AND ORDER APPROVING**

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 San Francisco, California, addressed as follows:

GLORIA S. WEIL-HERRERA
523 W 6TH ST #377
LOS ANGELES CA 90017

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

AGUSTIN HERNANDEZ, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **June 30, 2006.**



George Hae
Case Administrator
State Bar Court