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State Bar Court of California Hearing Department San Francisco		
Counsel For The State Bar	Case Number (s) 04-O-14636	(for Court's use)
Allen Blumenthal 180 Howard Street San Francisco, CA 94105		FILED
Bar # 110243	PUBLIC MATTER	MAR 2 5 2009
Paul S. Hokokian 1713 Tulare Street, Suite 204 Fresno, CA 93721	<u> </u>	STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
	Submitted to:	
Bar # 91660 In the Matter Of: Ruth Ratzlaff 968 Sierra Street, #128		CONCLUSIONS OF LAW AND APPROVING
Kingsburg, CA 93631	PUBLIC REPROVAL	
Bar # 87615	☐ PREVIOUS STIPULATIO	N REJECTED
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 November 29, 1979.
- (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 consists of **11** pages, not including 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".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."

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(7)	pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.				
(8) Paym 6140		/ment 10.7. (nent of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 7. (Check one option only):		
		cas cos (hai cos	sts added to membership fee for calendar year following effective date of discipline (public reproval) see ineligible for costs (private reproval) sts to be paid in equal amounts for the following membership years: rdship, special circumstances or other good cause per rule 284, Rules of Procedure) sts waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs" sts entirely waived		
(9)	The	parti	es understand that:		
	(a)		A private reproval 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 officials State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproval was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidents of a prior record of discipline under the Rules of Procedure of the State Bar.		
	(b)		A private reproval 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 reproval 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.		
F	Profe	avat essic	ing Circumstances [for definition, see Standards for Attorney Sanctions for onal Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances red.		
(1)		Prio	r 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 or a separate attachment entitled "Prior Discipline.		
(2)		Dish cond	conesty: Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, realment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.		

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(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)	\boxtimes	Harm: Respondent's misconduct harmed significantly a client, the public or the administration of justice. Respondent's long delay of this matter denied the beneficiaries their money for a substantial period of time.
(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.
Add	itiona	al aggravating circumstances:
C. I	Vitig circu	ating Circumstances [see standard 1.2(e)]. Facts supporting mitigating matances are required.
(1)	\boxtimes	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.

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(10)	\boxtimes	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.
Addi	tiona	al mitigating circumstances:
D. I	Disc	ipline:
(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).
<u>or</u>	(b)	Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).
(2)		Public reproval (Check applicable conditions, if any, below)
E. C	onc	litions Attached to Reproval:
(1)	\boxtimes	Respondent must comply with the conditions attached to the reproval for a period of two years .
(2)	\boxtimes	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)	\boxtimes	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)	\boxtimes	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)	\boxtimes	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 30 (thirty) days, that report must be submitted on the next following quarter date, and cover the extended period.

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		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 the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the 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 conditions attached to the reproval.	
(8)	\boxtimes	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:	
(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)		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 reproval.	
		No MPRE recommended. Reason:	
(11)		The following conditions are attached hereto and incorporated:	
	. *	☐ Substance Abuse Conditions ☐ Law Office Management Conditions	
		Medical Conditions	

F. Other Conditions Negotiated by the Parties:

Attachment language (if any):

FACTS AND CONCLUSIONS OF LAW

Facts:

- 1. Respondent was admitted to the practice of law in California on November 29, 1979 and has been a member of the State Bar at all times pertinent herein and is currently a member of the State Bar.
- 2. On September 9, 1997, respondent filed a will she had drafted three years earlier for Harold P. Hanson's ("Hanson") with the Superior Court of California, County of Fresno and assigned case number 5964424 (the "Hanson matter"). Hanson had died on August 23, 1997.
- 3. On October 21, 1997, the Court appointed Mr. Frank J. Volpa ("Volpa") as the executor of the estate. Thereafter, respondent represented Volpa in his capacity as the executor of Hanson's estate.
- 4. Subsequently, respondent failed to diligently perform any substantial acts to complete the matter, including failing to marshal the assets and filed an inventory and appraisement of the estate, as request.
- 5. On March 23, 1998, the Court sent respondent Notice re: Unnecessary Delay in Probate, warning her that continued failure to file an inventory and appraisement could lead to the removal of Volpa as the personal representative for the estate. Subsequently, respondent failed to complete the matter or take any substantial acts on behalf of the estate, including failing to file the inventory and appraisement.
- 6. On December 23, 1998, respondent filed a Status Report regarding the administration of the Hanson estate. Therein, respondent informed the Court that Hanson owned real property in Montana which required the opening of an ancillary probate in that state. That same day the Court continued the Hanson matter to August 18, 1999.
 - 7. During 1998, respondent communicated with Volpa only two times regarding the Hanson matter.
- 8. Between December 23, 1998 and August 18, 1999, respondent failed to complete the matter or take any substantive acts on behalf of the estate, including failing to file the inventory and appraisement.
- 9. On August 18, 1999, respondent filed a Status Report with the Court regarding the administration of the Hanson estate. Therein, respondent informed the Court that she had "no valid excuse for the delay in administering this estate. The delay is due to my inactivity, and no fault of the client." Respondent requested the Court to grant an additional six months to close the estate and informed the Court that she had engaged the services of Mr. Raymond A. Love ("Love"), a professional fiduciary to assist her with the inventories and accountings. The Court continued the matter to April 4, 2000.
 - 10. During 1999, respondent failed to communicate with Volpa at all.
- 11. Between August 18, 1999 and April 14, 2008, respondent failed to complete the matter or take any substantial acts on behalf of the estate, including failing to file the inventory and appraisement.

- 12. On April 4, 2000, respondent filed a Status Report, indicating that Love should have the first accounting within ninety days and, at that time, she would have more information as to how long the Montana ancillary probate would take to close.
- 13. Between April 4, 2000 and September 25, 2000, respondent failed to complete the matter or take any substantial acts on behalf of the estate.
- 14. On September 25, 2000, respondent filed a Status Report along with a declaration by Volpa which stated to the Court that the "Montana ancillary probate could not be completed until the California inventories were finalized, which had only happened this week due to the complex nature of the decedent's investments. I estimate it may take another six months to complete the Montana portion of the estate administration, which must take place before the final distribution can be made." However, the Montana probate had not yet been opened. The Court continued the matter to March 26, 2001.
- 15. At a hearing on the Hanson estate held on September 26, 2000, respondent stated to the Court that "[b]ecause we have an ancillary probate in Montana and we keep finding more assets here and they have some sort of inheritance tax so they need to know how much we've got, so six months[,]" additional time would be needed to complete the administration of the estate. At this hearing, respondent failed to inform the Court that no ancillary probate had yet been opened in Montana.
 - 16. During 2000, respondent communicated with Volpa only three times regarding the Hanson matter.
- 17. Between September 26, 2000 and March 21, 2001, respondent failed to complete the matter or take any substantial acts on behalf of the estate.
- 18. On March 26, 2001, respondent filed the First Account and Report in which she informed the Court that the Montana estate had yet to be administered, but in her filing, respondent failed to inform the Court that the ancillary probate in Montana was still not opened.
- 19. On May 14, 2001, the Court approved the first accounting and the request for partial allowance of the fees, petitioner's fees and respondent's fees, explicitly relying on respondent's assurance that she had copies, if not the originals, of the pleadings from the Montana ancillary probate in her office. At this hearing, respondent again failed to inform the Court that the ancillary probate in Montana had not yet been opened.
- 20. From May 2001 until October 2004, respondent failed to file any further Status Reports with the Court in regards to the Hanson estate or otherwise prosecute the matter.
 - 21. During 2001, respondent communicated with Volpa only four times regarding the Hanson matter.
- 22. During 2002 and 2003, respondent failed to communicate with Volpa at all regarding the Hanson matter.
- 23. On August 26, 2004, the Court ordered respondent to appear at a Status Hearing regarding her failure to file a Petition for Final Distribution and set the matter for September 30, 2004. The hearing, however, was continued to October 21, 2004.

- 24. On September 14, 2004, respondent submitted a letter to the State Bar in response to its letter to her regarding a complaint against her involving the Hanson estate. In that letter, respondent stated that she was in the process of initiating the ancillary probate in Montana.
- 25. On September 22, 2004, respondent contacted Ms. Nancy Gibson ("Gibson"), a Montana attorney, about opening an ancillary probate on behalf of the Hanson estate.
- 26. On October 21, 2004, respondent filed a Status Report with the Court and, at a hearing on the same date, informed the Court that the Hanson estate remained open because the ancillary probate proceedings had not yet been concluded. She further informed the Court that she had sent the necessary paperwork to Montana on October 8, 2004. The Court continued the matter to January 20, 2005.
 - 27. During 2004, respondent communicated with Volpa only once regarding the Hanson matter.
- 28. At the hearing on the Hanson estate held on January 20, 2005, respondent informed the Court that the Montana probate proceedings had been initiated. The Court continued the matter to April 21, 2005 and later continued it to July 21, 2005.
- 29. The Montana probate of the Hanson estate was opened on April 8, 2005. The ancillary probate was assigned Pondera County (Montana) Superior Court case number PR 0510.
- 30. On July 21, 2005, respondent filed a Status Report and informed the Court that she was in the process of finalizing the federal estate tax for the Montana property.
 - 31. During 2005, respondent communicated with Volpa only three times regarding the Hanson matter.
 - 32. On January 22, 2007, respondent sent the required documents to Gibson.
- 33. On March 13, 2007, Gibson contacted respondent to inform her that the documents relating to the ancillary probate of the Hanson estate had been recorded and returned to her office. Gibson further explained that the closing statement was not required.
- 34. On June 19, 2007, respondent filed a Second and Final Accounting and informed the Court by declaration that the Montana estate had been administered.
- 35. On October 9, 2007, the Court issued its Order on First Amended Second and Final Account and Report of Personal Representative and Petition for its Settlement, for Allowance of Balance of Petitioner's and Attorney's Fees for Ordinary Services, and for Final Distribution, finally closing the Hanson estate matter ten years after it was opened.
- 36. The delay between the last Inventory and Appraisal, which was filed on March 21, 2001 and the final closing of the estate, some seven years later caused the Hanson estate to incur an additional \$7,778.72 in interest owed on Montana inheritance taxes. Respondent paid this amount to the State of Montana out of her own pocket.

37. Since 2006, respondent stopped communicating with Volpa regarding the Hanson matter except for a single contact in November 2007 to retrieve a check for her services from Volpa for the amount approved in the final accounting. For the past three years, Volpa has only communicated with Love regarding the Hanson estate.

Conclusions of Law:

By repeatedly delaying the opening of the ancillary probate proceedings in Montana and by prolonging the closing of the Hanson estate in California for over ten years, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence and, as such, willfully violated rule 3-110(A) of the Rules of Professional Conduct.

By failing to keep Volpa reasonably informed regarding the Hanson matter for which he served as executor and respondent as his counsel, respondent failed to keep her client reasonably informed of significant developments in a matter or matters with regard to which the attorney has agreed to provide legal services in willful violation of section 6068(m) of the Business and Professions Code.

PENDING PROCEEDINGS

The disclosure date referred to, on page one, paragraph A.(7) was February 24, 2009.

FACTS SUPPORTING MITIGATING CIRCUMSTANCES

<u>Lack of Prior Discipline – Std. 1.2(e)(i)</u>

Absence of any prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.

Personal Difficulties (Family Problems) - Std. 1.2(e)(iv)

At the time of the misconduct, respondent suffered extreme difficulties in her personal life. Between 1997 and 1999, respondent's mother was in failing health which required respondent to take time away from her law practice in order to take her to medical appointments. After respondent's mother passed away in 1999, respondent was concerned that her father now lived alone and made many trips to his home to check on him.

Beginning in 2001, respondent's father's health began to fail and respondent was called upon to monitor his health and well-being over the next several years until his death in 2005.

AUTHORITIES SUPPORTING DISCIPLINE

Standard 2.4(b) recommends reproval or suspension for willfully failing to perform services depending on the extent of misconduct and the degree of harm to the client. Standard 2.6 recommends disbarment or suspension for violating section 6068 of the Business and Professions Code with due regard for the purposes of imposing discipline set forth in standard 1.3.

The Supreme Court recently re-affirmed that great weight is to be given the standards and that they should be followed whenever possible. (*In re Silverton* (2005) 36 Cal.4th 81, 92.)

Thus, while the Standards are not mandatory, the Supreme Court has held that they should be followed unless the charged attorney can demonstrate the existence of extraordinary circumstances justifying a lesser sanction. (*In re Silverton*, supra, 36 Cal.4th at 92.) That is, it is Respondent's burden to demonstrate that there are extraordinary circumstances justifying a lesser sanction than that recommended by the Standards.

An isolated failure to perform by an attorney has resulted in public and private reprovals to actual suspensions in the past. See Samuelson v. State Bar (1979) 23 Cal.3d 558; In the Matter of Respondent G (Review Dept., 1992) 2 Cal. State Bar Ct. Rptr. 175; Conroy v. State Bar (1990) 51 Cal.3d 799; Harris v. State Bar (1990) 51 Cal.3d 1082. In Samuelson, the attorney failed to perform in a probate matter and received a public reproval. In Respondent G, the attorney also neglected a probate matter, warranting a private reproval. In Conroy, the court, in a footnote, reported that the attorney had received a prior discipline of a private reproval for misconduct in three client matters for failing to return a file, abandoning a client which resulting in an arrest warrant being issued for the client, and failing to file an inventory in an estate matter. In Harris, the attorney received a three month actual suspension when the client suffered substantial prejudice and the attorney showed no remorse. Harris had 20 years of practice with no priors.

Respondent claims that she had extensive responsibilities arising from the care of her aging parents during the pendency of the Hanson estate matter. Given her lack of any prior discipline in nearly thirty years of practicing law and credit for stipulating in this matter, and her showing of remorse, the recommended discipline for respondent is a public reproval, including Ethics School and taking and passing the Multistate Professional Responsibility Examination, as a means to protect the public, maintain high professional standards, and preserve public confidence in the legal profession.

(Do not write above this line.)		
In the Matter of	Case number(s):	
Ruth Ratzlaff	04-O-14636	

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.

3-2-09	bly 26 Cart	Ruth Ratzlaff
Date	Respondent's Signature	Print Name
May 4, 2009	Laul XOUNGULAN	Paul S. Hokokian
Date	Respondent's Counsel Signature	Print Name
March 9 2009	all Bluenthal	Allen Blumenthal
Date '	Deputy Trial Counsel's Signature	Print Name

In the Matter	· Of	Case Number(s):
Ruth Ratzla		04-O-14636
	* •	
		ORDER
y any cond		e public and that the interests of Respondent will be served oval, IT IS ORDERED that the requested dismissal of without prejudice, and:
×	The stipulated facts and d IMPOSED.	isposition are APPROVED AND THE REPROVAL
	The stipulated facts and d below, and the REPROVA	isposition are APPROVED AS MODIFIED as set forth
	All court dates in the Hear	ring Department are vacated.
tipulation, urther mod	filed within 15 days after salifies the approved stipulati	on as approved unless: 1) a motion to withdraw or modify the ervice of this order, is granted; or 2) this court modifies or ion. (See rule 125(b), Rules of Procedure.) Otherwise the rs after service of this order.
eparate p	roceeding for willful brea	ons attached to this reproval may constitute cause for a ach of rule 1-110, Rules of Professional Conduct.
Date	20,09	Judge of the State Bar Court We Armendariz
		•

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 March 25, 2009, 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:

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

PAUL SUREN HOKOKIAN FRESNO STATION BUSINESS CENTER 1713 TULARE ST STE 204 FRESNO, CA 93721

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

ALLEN BLUMENTHAL, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on March 25, 2009.

Laine Silber

Case Administrator

State Bar Court