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<b>State Bar Court of California</b>		
Hearing Department <input type="checkbox"/> Los Angeles <input checked="" type="checkbox"/> San Francisco		
<p>Counsel for the State Bar Tammy M. Albertsen-Murray Deputy Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2527</p> <p>Bar # 154248</p>	<p>Case number(s) 04-0-14978-JMR</p> <p style="text-align: center;">kwiktag®    022 605 371</p> 	<p>(for Court's use)</p> <p style="text-align: center;"><b>PUBLIC MATTER</b></p> <p style="text-align: center;"><b>FILED</b> </p> <p style="text-align: center;">OCT 20 2005</p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p><input type="checkbox"/> Counsel for Respondent <input checked="" type="checkbox"/> In Pro Per, Respondent</p> <p>Elizabeth A. Reifler 1696 Eastman Lane Petaluma, CA 94952</p> <p>Bar # 110989</p>	<p>Submitted to    <input checked="" type="checkbox"/> assigned judge    <input type="checkbox"/> settlement judge</p> <p><b>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</b></p> <p><b>REPROVAL</b>    <input type="checkbox"/> PRIVATE    <input checked="" type="checkbox"/> PUBLIC</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of</p> <p>ELIZABETH A. REIFLER</p> <p>Bar # 110989</p> <p>A Member of the State Bar of California (Respondent)</p>		

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 December 12, 1983  
(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:  
2006, 2007, 2008, 2009, 2010  
(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 inquiries 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 \_\_\_\_\_
  - (b)  Date prior discipline effective \_\_\_\_\_
  - (c)  Rules of Professional Conduct/ State Bar Act violations: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  - (d)  Degree of prior discipline \_\_\_\_\_

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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 page 8.

(Do not write above this line.)

**D. Discipline:**

- (1)  Private reproof (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 reproof (check applicable conditions, if any, below)

**E. Conditions Attached to Reproof:**

- (1)  Respondent must comply with the conditions attached to the reproof for a period of two (2) years.
- (2)  During the condition period attached to the reproof, 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 reproof. 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 reproof 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: \_\_\_\_\_
- (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:**

See page 9.

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

IN THE MATTER OF:        ELIZABETH A. REIFLER

CASE NUMBER(S):        04-O-14978-JMR

**FACTS AND CONCLUSIONS OF LAW.**

**Facts.**

Respondent substituted in to represent Michele Chouinard ("Chouinard") in a wrongful termination case against the County of Marin ("Marin County"); Marin County was represented by Rene Brewer ("Brewer"). Respondent filed an amended complaint on Chouinard's behalf. Brewer and Chouinard experienced ongoing difficulty communicating with respondent.

Respondent did not serve any formal discovery. Brewer propounded interrogatories to which respondent failed to obtain Chouinard's responses and in fact never responded in any way to the interrogatories. Brewer noticed Chouinard's deposition. Respondent failed to inform Chouinard about the actual deposition date (it having already been continued once at respondent's request) and then failed to communicate with Brewer that respondent would have difficulty appearing for the deposition. Neither respondent nor Chouinard appeared at the noticed deposition.

Marin County filed a motion for summary judgment. Respondent never prepared or filed an opposition to the motion. Respondent did not appear at the hearing on the motion, nor did Chouinard appear, having been informed by respondent that there was no need for her to appear. Marin County's motion was granted and the case was dismissed with prejudice.

Respondent failed to cooperate with the State Bar investigation; her cooperation in the State Bar Court proceedings has been sporadic and inconsistent.

**Conclusions of Law.**

By, *inter alia*, failing to propound discovery; failing to respond to written discovery; failing to produce Chouinard for her deposition; and failing to oppose or in any way respond to Marin County's motion for summary judgment or appear at the hearing on the motion, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in violation of Rules of Professional Conduct, rule 3-110(A).

By failing to respond to the majority of Chouinard's many attempts to contact her and by

failing to inform Chouinard of respondent's failure to oppose the summary judgment motion or the significance of the motion and ramifications of failing to respond, respondent failed to communicate with her client and failed to keep her client informed of significant events, in violation of Business and Professions Code, section 6068(m)

By failing to respond to State Bar investigator correspondence and failing to timely respond to the filing of the Notice of Disciplinary charges, respondent violated Business and Professions Code, section 6068(i).

#### **PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, at paragraph A.(7), was September 21, 2005.

#### **DISMISSALS.**

The parties respectfully request that the Court dismiss the following alleged violation in the interests of justice:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
04-O-14978-JMR	Three	Business and Professions Code, section 6106

#### **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of September 20, 2005, the estimated prosecution costs in this matter are approximately \$3,654.00. 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.

#### **AUTHORITIES SUPPORTING DISCIPLINE.**

- *In the Matter of Nunez* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196, 206;
- Standard 2.4 (providing for reproof to disbarment for wilful failure to perform services and failure to communicate with client).

#### **MITIGATING CIRCUMSTANCES, Continued from Stipulation, page 4.**

Respondent suffers from clinical depression and has suffered from the condition for a period of years from which she is not recovered. In recognition of her medical condition, respondent has retained the services of a licensed mental health practitioner. Further, respondent has voluntarily enrolled in the Lawyers Assistance Program.

Respondent stipulates, agrees and acknowledges that her mandatory participation in LAP is a required condition of this Stipulation and Order.

**STATE BAR ETHICS SCHOOL.**

Because respondent has agreed to attend State Bar Ethics School as part of this stipulation, respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School.

**OTHER CONDITIONS NEGOTIATED BY THE PARTIES, Continued from Stipulation, page 6.**

**Other Conditions - Coverage of Law Practice**

Respondent stipulates and agrees to retain and maintain for the entire period of her probation an attorney and/or clerical services, whichever or both as applicable, to insure coverage of her litigation and other law practice matters (including but not limited to court appearances; appearance at properly noticed depositions and other examinations) and receipt of telephonic and mail communications relating to her law practice. As of the signing of this stipulation, respondent has retained the aid of California attorney **Andrew Alger, P.O. Box 234, Bodega Bay, California, 94923, State Bar member number 142838**, for the services described in this condition. OCTC has confirmed Mr. Alger's willingness to provide the services described herein.

Respondent further agrees to notify the Office of Probation if she retains any other individual and/or company for these services and specifically agrees to allow any Probation Deputy to contact the person or company representative to confirm the terms of the service arrangement.

**Other Conditions - Maintenance of Current Telephone Number and Address**

Respondent specifically acknowledges her duties pursuant to Business and Professions Code, section 6002.1(a). Respondent shall maintain a current, valid and operative telephone number and address at which she shall be reachable by the Office of the Chief Trial Counsel, the State Bar Court, the State Bar's Probation Department and any other department at the State Bar as well as by members of the public who may rely on State Bar membership information in order to conduct business with State Bar members and respondent in particular.

**Other Conditions - Lawyers Assistance Program**

**LAP Evaluation:**

1. No later than ten (10) days after the effective date of the discipline in this matter, if she has not done so already, respondent must:

- a. Report to the Lawyer Assistance Program of the State Bar of California (LAP) for an evaluation regarding substance abuse and mental health issues;
  - b. Sign a written agreement with LAP to be evaluation, and
  - c. Sign a waiver directing and authorizing LAP to timely notify the Office of Probation of her compliance and noncompliance with the terms and conditions of her LAP evaluation agreement.
2. Within twenty (20) days after the effective date of the discipline in this matter, respondent must provide evidence satisfactory to the Office of Probation of her reporting to the LAP, entering into an evaluation plan agreement, and signing a waiver authorizing LAP to notify the Office of Probation of her compliance/non-compliance with the terms and conditions of her LAP evaluation plan agreement.
  3. Respondent must comply with the terms and conditions of the LAP evaluation agreement.
  4. With each written report required pursuant to this stipulation and order, respondent must provide evidence satisfactory to the Office of Probation of her compliance with the terms and conditions of her LAP evaluation plan agreement.

**LAP Participation:**

5. At the conclusion of her evaluation by LAP, respondent must enter into a LAP Participation Agreement with the LAP and she must sign a waiver directing and authorizing LAP to timely notify the Office of Probation of her compliance and non-compliance with the terms and conditions of her LAP Participation Agreement and any and all violations of any other condition(s) or terms imposed upon her by LAP.
6. Within ten (10) days of signing her LAP Participation Agreement, respondent must provide evidence satisfactory to the Office of Probation that she has entered into a LAP Participation Agreement with the LAP.
7. Respondent must remain in compliance with all treatment and monitoring terms and conditions of her LAP Participation Agreement, whether as initially agreed or as LAP may change or modify those conditions thereafter.
8. With each written report required pursuant to this order, respondent must provide evidence satisfactory to the Office of Probation of her compliance with all treatment and monitoring terms and conditions of her LAP evaluation plan agreement.

(Do not write above this line.)

In the Matter of  Elizabeth A. Reifler	Case number(s):  04-0-14978-JMR
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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.

9/23/2005  
Date

  
Respondent's signature

Elizabeth A. Reifler  
Print name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Respondent's Counsel's signature

N/A  
Print name

9/27/05  
Date

  
Deputy Trial Counsel's signature

Tammy M. Albertsen-Murray  
Print name

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In the Matter of Elizabeth A. Reifler	Case number(s): 04-0-14978-JMR
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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 reproof, 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 reproof may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.

October 20, 2005  
Date

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 October 20, 2005, 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:

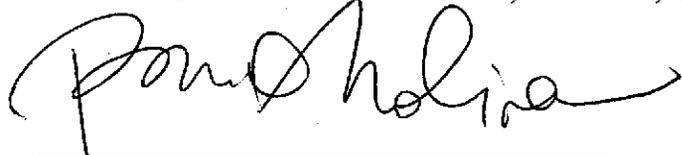
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

**ELIZABETH ANN REIFLER  
LAW OFC ELIZABETH ANN REIFLER  
1696 EASTMAN LANE  
PETALUMA CA 94952**

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

**TAMMY ALBERTSEN-MURRAY, Enforcement, San Francisco**

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **October 20, 2005.**



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**Bernadette C. O. Molina**  
Case Administrator  
State Bar Court