

State Bar Court of California
Hearing Department
Los Angeles

Counsel For The State Bar

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Bar # **228256**

Counsel For Respondent

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Bar # **129690**

In the Matter Of:
Kim D. Scovis

Bar # **182059**

A Member of the State Bar of California
(Respondent)

Case Number (s)
04-O-15332, 05-O-00934

(for Court's use)

PUBLIC MATTER

FILED

FEB 04 2009

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

Submitted to: **Settlement Judge**

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

ACTUAL SUSPENSION

☐ 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 **June 3, 1996**.
- (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 15 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."



- (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.
- (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: **three billing cycles following the effective date of the Supreme Court Order.**
(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
 - (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.
- (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. **Specifically, in the Chivington matter, Respondent informed Chivington that his case was dismissed, told Chivington that he could sue her for malpractice, and referred Chivington to a malpractice attorney.**
- (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. **During the time period at issue here, Respondent was involved in a contentious and difficult custody battle.**
- (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

Respondent has no prior discipline since her admission in 1996

Emotional/ Physical Difficulties: Around the time of the misconduct, Respondent sustained the loss of both her biological and adoptive fathers, as well as her grandmother. In addition, Respondent's mother was seriously injured in a car accident. These events caused Respondent considerable emotional stress.

D. Discipline:

(1) ☒ **Stayed Suspension:**

(a) ☒ Respondent must be suspended from the practice of law for a period of **two 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 9.18, California Rules of Court)

(3) ☒ **Actual Suspension:**

(a) ☒ Respondent must be actually suspended from the practice of law in the State of California for a period of **90 days**.

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.
- (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: .
- (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 type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input checked="" type="checkbox"/> Medical Conditions | <input checked="" 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 954-9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**

☐ No MPRE recommended. Reason:

- (2) ☒ **Rule 955-9.20, California Rules of Court:** Respondent must comply with the requirements of rule 955-9.20, 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 955-9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 955-9.20, 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:**

In the Matter of
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Medical Conditions

- a. ☐ Unless Respondent has been terminated from the Lawyer Assistance Program ("LAP") prior to respondent's successful completion of the LAP, respondent must comply with all provisions and conditions of respondent's Participation Agreement with the LAP and must provide an appropriate waiver authorizing the LAP to provide the Office of Probation and this court with information regarding the terms and conditions of respondent's participation in the LAP and respondent's compliance or non-compliance with LAP requirements. Revocation of the written waiver for release of LAP information is a violation of this condition. However, if respondent has successfully completed the LAP, respondent need not comply with this condition.

- b. ☒ 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 **one** times 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 **one*** 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.

- c. ☒ 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.

Other:

* or until the treating psychologist, psychiatrist, or social worker determines the treatment is no longer needed, in which case the Respondent should provide written proof of this determination to the Office of Probation.

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Case number(s):
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A Member of the State Bar

Financial Conditions

a. Restitution

- ☐ Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From

- ☐ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than

b. Installment Restitution Payments

- ☐ Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency

c. Client Funds Certificate

- ☒ 1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

b. Respondent has kept and maintained the following:

- i. A written ledger for each client on whose behalf funds are held that sets forth:
 1. the name of such client;
 2. the date, amount and source of all funds received on behalf of such client;
 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
 4. the current balance for such client.
 - ii. a written journal for each client trust fund account that sets forth:
 1. the name of such account;
 2. the date, amount and client affected by each debit and credit; and,
 3. the current balance in such account.
 - iii. all bank statements and cancelled checks for each client trust account; and,
 - iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.
- c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:
- i. each item of security and property held;
 - ii. the person on whose behalf the security or property is held;
 - iii. the date of receipt of the security or property;
 - iv. the date of distribution of the security or property; and,
 - v. the person to whom the security or property was distributed.
2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.
3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

d. **Client Trust Accounting School**

- ☒ Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

Attachment to Stipulation Re Facts, Conclusions of Law and Disposition
in the Matter of Kim Scovis

Case no. 04-O-15332, 05-O-00934

I. Facts

05-O-00934

1. In late 2001, Michael Chivington ("Chivington") hired Respondent to file a complaint alleging employment discrimination by the Navy.

2. On April 5, 2002, Respondents filed a complaint on behalf of Chivington; however, Respondent failed to properly serve the defendants or prosecute the complaint resulting in the dismissal of the complaint on December 17, 2003.

3. On December 17, 2004 Respondent informed Chivington of the dismissal.

4. From January to October 2004 Chivington sent Respondent on letter per month requesting a status on his case. Respondent did not respond to these letters.

5. On March 11, 2005, a State Bar Investigator ("Investigator") wrote a letter to Respondent's counsel, Susan Margolis, regarding the Chivington matter. On March 28, 2005, Respondent called the Investigator and told her that Margolis was not representing Respondent. Respondent requested a two-week extension of time to respond to the allegations set forth in the March 11, 2005.

6. On or about March 29, 2005, the Investigator wrote a letter to Respondents regarding the Chivington matter. The letter was placed in an envelope correctly addressed to Respondent at her State Bar membership records address. The envelope was properly sealed and mailed by first class mail, postage prepaid, by depositing for collection by the U.S. Postal Service in the ordinary course of business. The U.S. Postal Service did not return the envelope containing the Investigator's letter as undeliverable or for any other reason. Respondent received the envelope containing the letter.

7. The Investigator's letter confirmed that Respondent was not represented by Margolis and would respond in writing to specified allegations of misconduct being investigated by the State Bar in the Chivington matter by April 12, 2005. Respondent did not respond to the Investigator's letter or otherwise communicate with the Investigator.

8. On September 5, 2002, Smith hired Respondent to represent her in personal injury proceedings arising from the automobile accident. Respondent was entitled to no more than 40% of the recovery pursuant to the fee agreement.

9. Respondent settled Smith's claim for \$235,000 (the "\$235,000 settlement"), and on May 30, 2003, Respondent received two settlement checks payable to Respondent and Smith in the sum of \$235,000, which Respondent deposited into her CTA.

10. On June 5, 2003, Smith signed a "Disbursement Sheet" prepared by Respondent to disburse the \$235,000 settlement. Respondent allocated \$94,000 for attorney's fees and \$611.46 for costs for a total payment to Respondent of \$94,611.46. Respondent withheld \$60,000 to pay medical bills from Medicare and Blueshield. Respondent disbursed the remaining \$80,388.54 to Smith.

11. During the period between June 6, 2003 and December 31, 2004, the following activity occurred in Respondent's CTA concerning the \$235,000 settlement:

Check No.	Date ²	Payee	Description	Amount	Amount in CTA ¹	Amount to be held in Trust ¹
	5/30/03 ²				\$271,073.37	235,000.00
438	6/6/03 ^a	Gladys Smith	Settlement-Partial	\$80,388.54	\$185,518.95	\$154,611.46
445	6/13/03	Law Offices of Kim D. Scovis	Smith Costs	\$611.46	\$166,279.86	\$154,000
446	6/13/03	Law Offices of Kim D. Scovis	Smith Advance	\$20,000	\$145,668.40	\$134,000
447	7/2/03	Law Offices of Kim D. Scovis	Smith	\$20,000	\$125,668.40	\$114,000
448	7/16/03	Law Offices of Kim D. Scovis	Smith	\$10,000	\$115,293.40	\$104,000
452	7/23/03	Law Offices of Kim D. Scovis	Smith	\$10,000	\$107,757.95	\$94,000
453	7/28/03	Law Offices of Kim D. Scovis	Smith	\$10,000	\$97,757.95	\$84,000

^a The "Date" indicates the "Amount in [the] CTA" on that date, the date the CTA check was posted/paid by Citibank, or the date CTA check No. 458 was dated (it was subsequently voided before being negotiated by Respondent).

Check No.	Date ²	Payee	Description	Amount	Amount in CTA ¹	Amount to be held in Trust
454	9/12/03	Law Offices of Kim D. Scovis	Smith	\$10,000	\$52,757.95	\$74,000
455	9/19/03	Gladys Smith	Smith Farmers	\$40,000	\$12,757.95	\$34,000
456	9/22/03	Law Offices of Kim D. Scovis	Smith Fee	\$5,000	\$7,757.95	\$29,000
457	10/2/03	Medicare	Gladys Smith	\$4,670.77	\$9,087.18	\$24,329.23
458	9/30/03 ²	Law Offices of Kim D. Scovis	Smith Final Fee	\$9,000 <i>Voided</i>	<i>Voided</i>	\$24,329.23
460	11/7/03	Gladys Smith	Final Payment	\$12,256.54	\$146,830.54	\$12,072.69
	2/27/04				\$8,416.75	\$12,072.69
	3/2/04				\$4,171.75	\$12,072.69
	4/8/08				\$4,171.75	\$12,072.69
	5/6/04				\$671.75	\$12,072.69
	5/28/04				\$3,171.75	\$12,072.69
	6/4/04				\$4,338.25 -	\$12,072.69
	6/4/04				\$161.75	\$12,072.69

12. From June 2003 until February 15, 2005, Smith repeatedly demanded that Respondent resolve the medical bills from her health care providers or pay Smith the funds held in the CTA to permit Smith to resolve the medical bills.

13. On February 15, 2005, Respondent interpled \$3,7042.53 with the Los Angeles Superior Court in an action titled Law Office of Kim D. Scovis, Kim Scovis, and Jenny Scovis v. Gladys Smith, Blue Shield of California, LASC Case No. SC042009, which represented the amount that Respondent calculated she held in the CTA regarding the 235,000 settlement.

14. Respondent failed to maintain a written record of all client funds coming into her possession concerning Smith and the \$235,000 settlement, including but not limited to a written ledger for Smith.

II. Conclusions of Law

15. By failing to properly prosecute the Chivington case and failing to serve the defendants, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in violation of Rules of Professional Conduct, rule 3-110.

16. By failing to respond to the letters Chivington prepared and mailed to her between January and October 2004, Respondent willfully failed to respond promptly to reasonable status inquiries of a client in violation of Business and Professions code, section 6068(m).

17. By effectively abandoning Chivington after the December 17, 2003 dismissal, Respondent willfully failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to her client in violation of Rules of Professional Conduct, rule 3-700(A)(2).

18. By not providing a written response to the allegations in the Chivington matter or otherwise cooperating in the investigation of the Chivington matter, Respondents wilfully failed to cooperate and participate in a disciplinary investigation in violation of Business and Professions code, section 6068(i).

19. By failing to withdrawing her attorney's fees in single sum of \$94,000, Respondent wilfully commingled funds belonging to her in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import in violation of Rules of Professional Conduct, rule 4-100(A).

20. By repeatedly failing to maintain the balance of funds received for the benefit of Smith and deposited in Respondent's CTA between September 12, 2003 and June 4, 2004, Respondent wilfully failed to maintain clients funds in her trust account in violation of Rules of Professional Conduct, rule 4-100(A).

21. By failing to pay or interplead Smith's funds held in the CTA at Smith's request from approximately June 2003 until February 15, 2005, Respondent failed to pay client funds as requested by her client in violation of Rules of Professional Conduct, rule 4-100(B)(4).

22. By failing to maintain a written record of all client funds coming into her possession concerning the \$235,000 settlement that she was required to maintain pursuant to rule 4-100(c), Respondent willfully failed to maintain, and to preserve for five years

from final appropriate disposition, complete records of all client funds coming into her possession in violation of Rules of Professional Conduct, rule 4-100(B)(3).

III. Supporting Authority

Standard 2.2 of the Standards for professional conduct, states:

(b) Culpability of a member of commingling of entrusted funds or property with personal property or the commission of another violation of rule 4-100, Rules of Professional Conduct, none of which offenses result in the wilful misappropriation of entrusted funds or property shall result in at least a three month actual suspension from the practice of law, irrespective of mitigating circumstances.

IV. Estimate of Costs of Disciplinary Proceedings


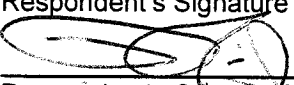

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of February 2, 2009, the estimated prosecution costs in this matter are approximately \$ \$4,273.00 plus the cost of the court reporter on January 26, 2009. Respondent acknowledges that this figure is an estimate only. 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.

(Do not write above this line.)

In the Matter of Kim D. Scovis, Bar No. 182059	Case number(s): 04-O-15332, 05-O-00934
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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 Fact, Conclusions of Law and Disposition.

<u>2-4-09</u> Date	 Respondent's Signature	<u>Kim D. Scovis</u> Print Name
<u>2-4-09</u> Date	 Respondent's Counsel Signature	<u>Kevin P. Gerry</u> Print Name
<u>2/4/09</u> Date	 Deputy Trial Counsel's Signature	<u>Christine Souhrada</u> Print Name

(Do not write above this line.)

In the Matter Of Kim D. Scovis, Bar No. 182059	Case Number(s): 04-O-15332, 05-O-00934
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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.

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 9.18(a), California Rules of Court.)**

Date

02-04-09

Judge of the State Bar Court

RICHARD A. PLATEL

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 February 4, 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:

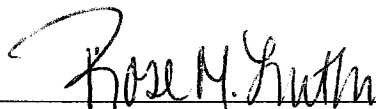
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

KEVIN P. GERRY, ESQ.
1001 OLIVE ST
SANTA BARBARA, CA 93101

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

CHRISTINE SOUHRADA, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on February 4, 2009.



Rose Luthi
Case Administrator
State Bar Court