



ORIGINAL

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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 Office of the Chief Trial Counsel-Enforcement Monique T. Miller, DTC 1149 South Hill Street Los Angeles, CA 90015 Tel.: (213) 765-1486 Bar # 212469	Case number(s) 05-J-01131	(for Court's use) <div style="text-align: center;"> FILED JUN 16 2005 <i>YHC</i> STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
<input type="checkbox"/> Counsel for Respondent <input checked="" type="checkbox"/> In Pro Per, Respondent Melodie R. Williams Aduja 47315 Kamehameha Hwy Kaneohe, HI 96744 Tel.: (808) 239-0800 Bar # 158068	<div style="text-align: center; font-size: 2em; font-weight: bold;">PUBLIC MATTER</div>	
In the Matter of MELODIE R. WILLIAMS ADUJA Bar # 158068 A Member of the State Bar of California (Respondent)	Submitted to <input checked="" type="checkbox"/> assigned judge <input type="checkbox"/> settlement judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted June 8, 1992
(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 17 pages.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.

(Do not write above this line.)

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

- ☐ until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
- ☒ costs to be paid in equal amounts prior to February 1 for the following membership years:
2006 and 2007
(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 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 restored or was unable to restore to the client or person who was the object of the misconduct or proper conduct toward said funds or property.

- (4) ☒ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.

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- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) ☐ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (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 ~~Respondent has no prior record of discipline over many years of practice~~
- (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) ☒ **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.
See Attachment "Other Factors for Consideration" Pages 12 & 13
- (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.
See Attachment "Other Factors for Consideration" Page 13
- (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:

D. Discipline:

(1) ☒ **Stayed Suspension:**

(a) ☒ Respondent must be suspended from the practice of law for a period of Three (3) 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 Two (2) Years,
which will commence upon the effective date of the Supreme Court order in this matter.
(See rule 953, Calif. Rules of Ct.)

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(3) ☒ **Actual Suspension:**

(a) ☒ Respondent must be actually suspended from the practice of law in the State of California for a period of Three (3) Months

- 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.

(Do not write above this line.)

- (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. Respondent resides in Hawaii with two young children. MCLE Ethics courses taken in Hawaii are required as
☒ No Ethics School recommended. Reason: per Page 7 (b) of Stipulation
- (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 checked="" type="checkbox"/> Law Office Management Conditions See page 7 |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) ☐ Multistate Professional Responsibility Examination: Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 951(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.
☒ No MPRE recommended. Reason: Already required by Hawaii Supreme Court's Order
- (2) ☒ Rule 955, California Rules of Court: Respondent must comply with the requirements of rule 955, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) ☐ Conditional Rule 955, California Rules of Court: If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 955, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) ☐ Credit for Interim Suspension [conviction referral cases only]: Respondent will be credited for the period of his/her Interim suspension toward the stipulated period of actual suspension. Date of commencement of Interim suspension: _____
- (5) ☐ Other Conditions:

In the Matter of
MELODIE R. WILLIAMS ADUJA,
A Member of the State Bar Bar #158068

Case Number(s):
05-J-01131

Law Office Management Conditions

- a. ☐ Within ____ days/ ____ months/ ____ years of the effective date of the discipline herein, Respondent shall develop a law office management/ organization plan, which must be approved by respondent's probation monitor, or, if no monitor is assigned, by the Probation Unit. This plan must include procedures to send periodic reports to clients; the documentation of telephone messages received and sent; file maintenance; the meeting of deadlines; the establishment of procedures to withdraw as attorney, whether of record or not, when clients cannot be contacted or located; and, for the training and supervision of support personnel.
- b. ☒ Within ~~____ days/ ____ months/~~ 1 years of the effective date of the discipline herein, respondent shall submit to the Probation Unit satisfactory evidence of completion of no less than 6 hours of MCLE approved courses in ~~law office management, attorney-client relationship, or~~ or general legal ethics. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and respondent shall not receive MCLE credit for attending these courses (Rule 3201, Rules of Procedure of the State Bar.)
- c. ☐ Within 30 days of the effective date of the discipline, respondent shall join the Law Practice Management and Technology Section of the State Bar of California and pay the dues and costs of enrollment for ____ year(s). Respondent shall furnish satisfactory evidence of membership in the section to the Probation Unit of the Office of Chief Trial Counsel in the first report required.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: MELODIE R. WILLIAMS ADUJA

CASE NUMBER: 05-J-01131

PROCEDURAL BACKGROUND

This is a proceeding brought under Business and Professions Code section 6049.1 and Rules of Procedure of the State Bar of California 620 through 625.

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:

1. Respondent, Melodie R. Williams Aduja, was admitted to the practice of law in California on June 8, 1992, and was a member at all times pertinent to these charges and is currently a member of the State Bar of California.
2. Respondent was admitted to the practice of law in the State of Hawaii on October 23, 1987.

Case No. 05-J-01131

3. On or about January 31, 2005, in the matter entitled *Office of the Disciplinary Counsel, Petitioner vs. Melodie R. Williams Aduja, Respondent*, Case ODC 00-383-6729, the Supreme Court of Hawaii issued an Order that Respondent be suspended for three years, effective thirty days after entry of the Order. Respondent was reminded that she may not resume the practice of law until reinstatement by order of the Supreme Court of Hawaii. As conditions of her reinstatement, Respondent was further ordered to (1) take and complete the Practicing Attorneys Liability Management Society's practice management/law office audit program, (2) provide restitution to the Hawaii's Justice Foundation in the amount of \$2.73, and (3) take and pass the Multi-State Professional Responsibility Examination.

4. The January 31, 2005 Supreme Court Order was based on the Disciplinary Board's Report and Recommendation filed on November 19, 2004 by the Disciplinary Board of the Hawaii Supreme Court.
5. The November 19, 2004 Disciplinary Board's Report and Recommendation was based on the following October 8, 2004 stipulation of uncontested facts and conclusions of law:

UNCONTESTED FACTS & CONCLUSIONS OF LAW

On March 20, 2000, Respondent opened a client trust account at First Hawaiian Bank ("FHB"), Account No. 69-020860 ("CTA").

Commingling Personal Funds in CTA

Between in or about March 2000 through in or about October 2000, Respondent deposited into her CTA personal funds belonging to Respondent, as follows:

<u>Date of Deposit</u>	<u>Amount of Deposit</u>	<u>Form of Deposit</u>
03/20/00	\$3,162.75	Cash (\$500 for earned fees from client Avecilla, \$2,248 for earned and advanced fees from client Burlingame, and \$414.75 for earned fees from other clients)
04/10/00	\$3,000.00	2 checks issued by client Torres for earned fees
10/05/00	\$475.00	3 checks issued by 3 clients, McVey, Urbina and Wilson, for earned fees

Between in or about March through October 2000, on at least four occasions, Respondent commingled her own funds with funds belonging to a client, in violation of Hawaii Rules of Professional Conduct ("HRPC") 1.15(c) (a lawyer in possession of any funds belonging to a client is a fiduciary and shall not commingle such funds with her own).

Each violation of HRPC 1.15(c) was also found to be a violation of HRPC 8.4(a) (it is professional misconduct for a lawyer to violate the rules of professional conduct).

Personal or Non-Client Business Expenses Paid From CTA

In or about July 2000, Respondent issued CTA checks to pay personal or non-client business expenses, as follows:

<u>Check Number</u>	<u>Date Issued</u>	<u>Check Amount</u>	<u>Payee</u>
1011	07/21/00	\$12.00	Hawaii's State Bar Association
1013	07/25/00	\$233.17	Costco
1014	07/25/00	\$93.73	Office Depot
1017	07/27/00	\$143.75	Aloha Copy Systems
1018	07/28/00	\$225.00	Cash
1019	07/31/00	\$250.00	Cash
1020	08/17/00	\$50.00	Cash
1025	10/27/00	\$191.66	Costco

Between in or about July through October 2000, on at least eight occasions, Respondent issued CTA checks to pay personal or non-client business expenses, in violation of Hawaii Rules of Professional Conduct ("HRPC") 1.15(e) (no personal or non-client business expenses of the lawyer shall be paid directly from the trust account).

Each violation of HRPC 1.15(e) was also found to be a violation of HRPC 8.4(a).

Failure to Deposit Client Funds into CTA

Client Avecilla's Funds: On March 20, 2000, Respondent deposited \$500.00 of the \$1,500.00 retainer paid by client Avecilla. Subsequently, Respondent earned the \$1,000.00 balance of Avecilla's retainer by providing legal services for Avecilla from April 3 through October 7, 2000.

Respondent's failure to deposit \$1,000.00 of Avecilla's funds and expenditure of those funds for her own use and benefit violated: HRPC 1.15(a)(1) (every lawyer in private practice in the State of Hawaii who receives or handles client funds shall maintain a trust account or accounts, separate from any business and personal accounts, into which all funds entrusted to the lawyer's care shall be deposited); HRPC 1.15(c) (a lawyer in possession of any funds belonging to a client is a fiduciary and shall not misappropriate such funds to her own benefit); HRPC 1.15(c) (funds belonging in part to a client and in part presently or potentially to the lawyer must be deposited into a trust account); HRPC 1.15(d) (all funds entrusted to lawyer, except for "non-refundable retainers" earned upon receipt, shall be deposited intact into a trust account); HRPC 8.4(c) (it is professional misconduct for a lawyer to engage in conduct involving misrepresentation); and HRPC 8.4(a).

Client Burlingame's Funds: On March 20, 2000, Respondent wrote an unnumbered and unlabeled temporary check for \$2,248.00 to FHB. The \$2,248.00 amount represented the sum of

\$2,161.50 earned fees and \$86.50 advanced fees relating to Burlingame. Subsequently, Respondent earned the \$86.50 balance by providing legal services for Burlingame from May 9 through June 2, 2000.

Respondent's expenditure of \$86.50 of Burlingame's funds for her own use and benefit violated: HRPC 1.15(c) (a lawyer in possession of any funds belonging to a client is a fiduciary and shall not misappropriate such funds to her own benefit); HRPC 8.4(c) (it is professional misconduct for a lawyer to engage in conduct involving misrepresentation); and HRPC 8.4(a).

**Failure to Use Attorney's Name as Payee on CTA Check
Representing Earned Fees**

On March 20, 2000, Respondent wrote an unnumbered and unlabeled temporary check for \$2,248.00 to FHB. \$2,161.50 of the \$2,248.00 represented earned legal fees relating to Burlingame.

On April 10, 2000, Respondent wrote an unnumbered and unlabeled temporary check for \$2,500.00 to FHB, for her earned legal fees relating to client Torres.

On June 9, 2000, Respondent wrote check no. 1008 for \$50.00 payable to cash, for earned legal fees relating to Burlingame.

On July 7, 2000, Respondent wrote an unnumbered and unlabeled temporary check for \$200.00 payable to FHB, for her earned legal fees relating to client Barr.

On July 26, 2000, Respondent wrote check no. 1016 for \$250.00 payable to cash, for earned legal fees relating to client McVey.

On July 28, 2000, Respondent wrote check no. 1018 for \$225.00 payable to cash.

On July 31, 2000, Respondent wrote check no. 1019 for \$250.00 payable to cash.

On August 17, 2000, Respondent wrote check no. 1020 for \$50.00 payable to cash.

On October 27, 2000, Respondent wrote check no. 1025 for \$191.66 payable to cash.

Between in or about March and October 2000, on at least nine occasions, Respondent's failure to use her name as the payee for the trust account check representing her earned fees violated: HRPC 1.15(e) (earned fees withdrawn from a trust account shall be distributed by check to the named lawyer); and HRPC 8.4(a).

Failure to Use a Properly Labeled Deposit Ticket or
Properly Labeled and Consecutively Numbered Trust Account Check

On March 20, April 10, June 14, October 5, November 3, and December 21, 2000, Respondent made deposits into her CTA using unlabeled deposit tickets.

On March 20, April 10, May 1 and 3, July 7 and 10, 2000, Respondent wrote unlabeled and unnumbered temporary checks.

Between in or about March and December 2000, on at least twelve occasions, Respondent's failure to properly label deposits tickets for her trust account and to use a labeled trust account check bearing a preprinted consecutive number violated: HRPC 1.15(b) (each trust account, as well as deposit slips and checks drawn thereon, shall be prominently labeled "client trust account"); and HRPC 8.4(a).

Failure to Maintain a Business Account for Earned Trust Funds

On March 20, April 10, May 1 and 3, June 9, July 7, 10, 26, 27, 28 and 31, August 17, October 6 and 27, 2000, Respondent withdrew earned fees without transferring and depositing them into a business account bearing her name.

Between in or about March and October 2000, on at least fourteen occasions, Respondent's failure to transfer and deposit earned fees from her trust account into her business account violated: HRPC 1.15(a)(2) (every lawyer in private practice in the State of Hawaii who receives or handles client funds shall maintain in one or more bank or savings and loan association a business account into which all earned trust funds for professional services shall be deposited); and HRPC 8.4(a).

Other Violations

On July 31, August 31 and September 29, 2000, FHB debited \$9.75 from Respondent's trust account as monthly service charge. Each \$9.75 debit was charged to Respondent as misappropriation of money belonging to a client and interest belonging to the Hawaii Justice Foundation ("HJF") in violation of HRPC 1.15(c) and 8.4(a).

On October 31, 2000, FHB charged Respondent's trust account a special handling charge of \$19.75 for payment of a check negotiated against insufficient funds. The resulting increase in overdraft was charged to Respondent as a \$.05 misappropriation of interest belonging to HJF in violation of HRPC 1.15(c) and 8.4(a).

**AGREEMENTS AND WAIVERS PURSUANT TO BUSINESS AND PROFESSIONS
CODE SECTION 6049.1.**

- Respondent acknowledges that she has been disciplined in the State of Hawaii for acts that would warrant discipline by the State Bar of California under the laws or rules binding upon members of the State Bar at the time she committed misconduct in Hawaii. Respondent ALSO acknowledges that she wilfully violated rules 1-100(D)(1) [member lawfully practicing in another jurisdiction and failing to follow that jurisdiction's rules of professional conduct which are different from California Rules of Professional Conduct] and 4-100(A) [failing to preserve the identity of her clients' funds, commingling personal funds into the CTA, and issuing CTA checks for personal expenses].
- The proceeding in the above jurisdiction provided Respondent with fundamental constitutional protection.

PENDING PROCEEDINGS.

As of May 23, 2005, the disclosure date referred to, on page one, paragraph A.(7), there are no additional State Bar investigations pending against Respondent.

OTHER FACTORS FOR CONSIDERATION

- The following acts, consisting in the failure to deposit all funds entrusted to lawyer, except for "non-refundable retainers" earned upon receipt, intact into a trust account [HRPC 1.15(d)], the failure to use attorney's name as payee on CTA check representing earned fees [HRPC 1.15(e)], the failure to use properly labeled deposits tickets for the trust account and consecutively numbered trust account checks [HRPC 1.15(b)], and the failure to transfer and deposit earned fees from the trust account into a business account [HRPC 8.4(a)] do not constitute wilful misconduct under the California Rules of Professional Conduct governing funds of clients.
- Respondent suffered significant family problems at the time the misconduct occurred. In early 2000, three years after their marriage, Respondent's husband suffered his first relapse to his drug dependency, the severity of which Respondent was unaware until that occurrence. That relapse was the first of many others which would result in Respondent's husband stealing checks from Respondent's personal and general bank accounts, forging her signature and cashing the checks to purchase illicit drugs. To prevent further thievery, Respondent had to close all her existing accounts then reopen a new client trust account and use it temporarily as a general business account.

Respondent is not offering the foregoing as a justification or an excuse, but simply as an explanation for opening a client trust account in March 2000 and channeling through it her personal and business transactions.

- Respondent demonstrated remorse and recognition of wrongdoing by immediately taking remedial steps. Divorced since August 2003, Respondent is now the only person with access to her personal, business, and client trust accounts. Respondent also promptly complied with the Hawaii Supreme Court's order to take and complete a Practicing Attorneys Liability Management Society's ("PALMS") Audit Management Plan. On May 5, 2005, PALMS sent the State Bar a letter stating that it expects to issue the final audit report regarding Respondent's participation by early fall 2005 at the latest.
- A State Senator and several attorneys from Respondent's legal community have written to the Hawaii Disciplinary Board, attesting to Respondent's good character. Many clients, including Mr. Donald Allen Burlingame who was named in the Hawaii Disciplinary Board Report and Recommendation, have sent letters to the State Bar, praising Respondent's competency and diligence.

AUTHORITIES SUPPORTING DISCIPLINE.

Standards of Attorney Sanctions for Professional Misconduct, Title IV, of the Rules of Procedure of the State Bar of California (hereinafter "Standard(s)").

Standard 1.3 sets forth the primary purposes of disciplinary proceedings: namely, the protection of the public, courts and legal profession; the maintenance of high professional standards; and the preservation of public confidence in the legal profession.

Standard 2.2(b): commingling of entrusted funds with personal property, not resulting in wilful misappropriation of entrusted funds, shall result in at least a three month actual suspension.

Case Law

In *In the Matter of Robins* (1991) 1 Cal. State Bar Ct. Rptr. 708, the respondent stipulated to culpability on six counts of grossly negligent misappropriation of trust funds totaling over \$20,000 in medical liens that he failed to pay promptly (moral turpitude), as well as on two counts involving failure to perform and failure to return file to client. The respondent received 1 year actual suspension, 2 years stayed suspension and 3 years probation.

The hearing judge found that the respondent did not have a dishonest intent but rather was grossly negligent in managing his trust account and supervising staff. Actual suspension was necessary because of the pattern of misconduct and the lengthy time period of the

misconduct, spanning 7 years, the respondent's continued failure to pay medical liens long after demand, his knowing subjection of his client to a collection action, and his delay in returning another client's file.

Application

Respondent's misconduct is roughly equivalent to Robins' in that Respondent was grossly negligent in managing her trust account and recklessly disregarded her trust account obligations. However, the situation at hand should be distinguished from *In the Matter of Robins* in that, unlike Robins, the amount of trust funds involved is considerably less, there was no harm to any of Respondent's clients and Respondent's misconduct did not span many years but was limited to activity occurring in Respondent's trust account from March through December 2000. Respondent's discipline should thus be less than in *Robins*.

In the situation at hand, the nature of Respondent's misconduct combined with the other factors for consideration and mitigating factors indicates that imposing the sanctions set forth in standard 2.2(b) would suffice to further the purposes of standard 1.3.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of May 23, 2005, the estimated prosecution costs in this matter are approximately \$1,983.00. 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.

(Do not write above this line.)

In the Matter of
MELODIE R. WILLIAMS ADUJA,

Bar #158068

Case number(s):
05-J-01131

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.

6-1-2005
Date

Melodie R. Williams Aduja
Respondent's signature

MELODIE R. WILLIAMS ADUJA
Print name

Date

Respondent's Counsel's signature

Print name

June 3, 2005
Date

Monique T. Miller
Deputy Trial Counsel's signature

MONIQUE T. MILLER
Print name

(Do not write above this line.)

In the Matter of

MELODIE R. WILLIAMS ADUJA,
Bar #158068

Case number(s):

05-J-01131

ORDER

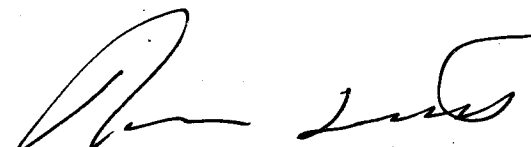
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- ☒ 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 953(a), California Rules of Court.)

6-14-05

Date



Judge of the State Bar Court

ROBERT M. TALCOTT

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 June 16, 2005, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION
AND ORDER APPROVING ACTUAL SUSPENSION, filed June 16, 2005**

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

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

**Melodie R. Williams Aduja
47315 Kamehameha Hwy
Kaneohe, HI 96744**

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

MONIQUE T. MILLER, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **June 16, 2005.**



Tammy R. Cleaver
Case Administrator
State Bar Court