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State Bar Court of California Hearing Department San Francisco PROGRAM FOR RESPONDENTS WITH SUBSTANCE ABUSE OR MENTAL HEALTH ISSUES		
Counsel For The State Bar Cydney Batchelor Deputy Trial Counsel 180 Howard St., 7th Fl. San Francisco, CA 94105 Tele: 415/538-2204 Bar # 114637	Case Number (s) 05-O-05117-PEM PUBLIC MATTER FILED JAN 03 2011 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO	(for Court's use) CONFIDENTIAL LODGED DEC 10 2007 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
In Pro Per Respondent Allison R. Pharis 200 Nelson Way, Unit 6 Sebastopol, CA 95472 Tele: 707/483-0006 Bar # 118291	Submitted to: Program Judge STIPULATION RE FACTS AND CONCLUSIONS OF LAW <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter Of: ALLISON R. PHARIS Bar # 118291 A Member of the State Bar of California (Respondent)		

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted 6/13/1985.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, if Respondent is not accepted into the Lawyer Assistance Program, this stipulation will be rejected and will not be binding on the Respondent or the State Bar.
- (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, except for Probation Revocation proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 9 pages, excluding 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".

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- (6) 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.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7 and will pay timely any disciplinary costs imposed in this proceeding.

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. **See attached**
- (8) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

None

C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.

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- (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.
- (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. **See attached**
- (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 attached**
- (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 attached

ATTACHMENT TO
STIPULATION RE FACTS AND CONCLUSIONS OF LAW

IN THE MATTER OF: **ALLISON R. PHARIS**

CASE NUMBER: **05-O-05117-PEM**

FACTS AND CONCLUSIONS OF LAW.

Facts:

1. On September 3, 2002, respondent's license to practice law was placed on involuntary inactive status pursuant to Business and Professions Code section 6070 and California Rule of Court 958 because respondent had failed to comply with her mandatory continuing legal education duties. At all times thereafter, respondent's license to practice law has remained on inactive status.

2. Respondent was properly served with notice that her license was placed on involuntary inactive status; however, she failed to open the envelopes containing the notice.

3. On August 12, 2003, respondent met with Patricia Kijak ("Kijak") at respondent's law office for about two and a half hours. Kijak explained that she was in the process of adopting a child and that she wanted to terminate the parental rights of the child's parents. She further explained that the legal father of the child (i.e., the husband of the biological mother) was a different person than the biological father. She further explained that the mother of the child was deceased. During this meeting, respondent held herself out as entitled to practice law by: (1) discussing Kijak's legal matter with her, (2) providing legal advice to Kijak, (3) entering into a written fee agreement with Kijak wherein respondent was identified as an attorney and wherein respondent was engaged to perform legal services relating to the adoption, and (4) accepting a payment for advanced attorneys fees in the amount of \$1,500. At the meeting, respondent instructed Kijak to write a letter to the legal father of the child, requesting that he relinquish parental rights. Respondent's conduct in discussing Kijak's legal matter and providing legal advice constituted the unauthorized practice of law.

4. Thereafter, Kijak provided to respondent a draft letter that Kijak proposed to send to the legal father of the child. In October 2003, respondent advised Kijak to make

certain changes to the letter. When the legal father did not respond to the letter, respondent advised Kijak to send a second letter. In each of these communications with Kijak, respondent engaged in unauthorized practice of law and held herself out as entitled to practice law.

5. After October 2003 and continuing until December 2004, Kijak and her husband, Michael Kijak, both left numerous telephone messages for respondent requesting that she contact them concerning the status of the Kijak's legal matter. The Kijaks also personally visited respondent's office in December 2004, leaving word for respondent to contact them. Respondent had previously promised that, in the event the legal father did not respond to Kijak's letters, respondent would file a petition to terminate the legal father's parental rights. The Kijaks had not received a response to their letters to the legal father, wanted to proceed with the petition to terminate parental rights, and therefore made the above-mentioned attempts to contact respondent. Respondent received these telephone messages and was made aware of the Kijaks' visit to her office.

6. Respondent did not respond to these messages until early 2005, at which point she informed the Kijaks that she could no longer represent them and that she would refer the Kijaks to a new attorney. Thereafter, respondent made no further effort to contact the Kijaks and respondent did not refer the Kijaks to a new attorney.

7. Beginning in April 2005 and continuing until October 2005, both of the Kijaks made numerous attempts to contact respondent, again leaving telephonic messages for her. Respondent received the messages but did not respond.

8. For two reasons, respondent never earned the \$1,500 advanced attorney fee: First, respondent's license to practice law was on inactive status and therefore respondent was disqualified from earning fees in the performance of legal services. Second, respondent performed five hours or less of services for the Kijak and respondent's hourly charge, as stated in the above-mentioned fee agreement, was \$200 per hour.

9. Respondent's employment effectively terminated shortly after October 2003, when respondent abandoned Kijak's cause by refusing to respond to her telephone messages. Respondent's employment formally terminated when, in early 2005, respondent told Kijak that she would not perform further legal services for the Kijaks.

10. Respondent made no refund to the Kijaks until October 2006, when respondent refunded \$1,000. Respondent made this partial refund only after she was contacted by the State Bar about this matter. Respondent failed to refund the remaining \$500 until January 11, 2007.

11. Upon termination of her employment, respondent failed to promptly make a refund of the unearned fee because she (1) failed to make any refund prior to in or about October, 2006 and (2) failed to refund the remaining \$500 advanced fee until January 11, 2007, after the intervention of the State Bar.

12. At all times mentioned below, the State Bar was conducting an investigation as to the matters alleged above.

13. On January 30, 2006, the assigned State Bar investigator sent respondent a letter of inquiry concerning the Kijak matter ("the first investigation mailing"). The first investigation letter requested that respondent provide the State Bar with specified documentation and a written response to specified inquiries. The letter was mailed to respondent's then-current address of record maintained by the State Bar pursuant to Business and Professions Code section 6002.1, but was returned by the Post Office as undeliverable.

14. Thereafter, through its own investigation, the State Bar located respondent's current address. On July 20, 2006 and September 22, 2006, the State Bar investigator mailed letters to respondent at the newly discovered address ("the second investigation mailings"). These mailings contained (1) copies of the January 30, 2006 and (2) requested that respondent provide the documentation and responses requested in the January 30, 2006 letter.

15. Respondent received the July 20, 2006 and September 22, 2006 letters shortly after they were sent. However, to date, respondent has not provided any of the requested documents nor has she provided any written response.

16. On or about September 29, 2006, respondent telephoned the State Bar investigator, made some statements about the matter, promised to provide a refund to the Kijaks and promised to comply with the requests made in the State Bar's inquiry letters. Thereafter, respondent failed to provide any further response to the letters of inquiry, failed to cooperate with the State Bar's investigation and failed to participate in the State Bar's investigation.

Conclusions of Law: By practicing law while on inactive status, respondent violated Business and Professions Code section 6125. By holding herself out as entitled to practice law, respondent violated Business and Professions Code section 6126 subdivisions (a) and (b). By violating sections 6125 and 6126, respondent failed to support the laws of this state, in violation of Business and Professions Code section 6068(a). Respondent violated Rule of Professional Conduct 4-200(A) by entering into an agreement for an illegal fee when she entered into the fee agreement with Kijak.

Respondent further violated Rule of Professional Conduct 4-200(A) by charging and collecting an illegal fee when she accepted the above-mentioned \$1,500 advanced attorney fee. Respondent committed acts of moral turpitude, dishonesty and corruption, in violation of Business and Professions Code section 6106 when she engaged in the following conduct while her license to practice law was on involuntary inactive status: (1) held herself out as entitled to practice law, (2) practiced law, (3) entered into the written fee agreement, and (4) accepted the \$1,500 advanced attorney fee. By failing to respond to the Kijaks' repeated messages (both during the period of October 2003 to December 2004 and during the period of April 2005 to October 2005), Respondent failed to promptly respond to reasonable status inquiries of a client, in violation of Business and Professions Code section 6068(m). By failing to respond to the first and second investigation letters and the within requests for documentation, respondent failed to cooperate and participate in a disciplinary investigation pending against her, in violation of Business and Professions Code section 6068(i).

PENDING PROCEEDINGS.

The disclosure date referred to on page one, paragraph A.(6), was October 10, 2007.

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Misconduct: As set forth above, respondent committed multiple acts of misconduct in Kijak's matter. In addition, respondent has admitted that during the period of time she was on inactive status, she also performed legal services for and collected attorney fees from Dawn Ross. To date, Ross has not filed a complaint with the State Bar.

MITIGATING FACTORS.

Family Problems: During the time of the misconduct stipulated to herein, respondent suffered a number of family problems, including an acrimonious divorce, the emotional and legal problems of her son and the death of her father.

Financial Difficulties: As a result of her divorce, and the emotional and legal problems of her son, respondent suffered severe financial difficulties during the period of the above misconduct.

ADDITIONAL MITIGATING CIRCUMSTANCES.

No prior discipline. Although the misconduct set forth herein is serious, it should nevertheless be noted that respondent had no prior record of discipline from being admitted in 1985 until the first act of misconduct herein in August 2003.

Candor during settlement process: Although respondent did not cooperate in the investigation of this matter, she did cooperate with the State Bar after the notice of disciplinary charges was filed.

Delayed Restitution: Although she did not do so until after the intervention of the State Bar, respondent eventually paid full restitution to Kijak.

Participation in Lawyer's Assistance Program. On January 8, 2007, respondent contacted the State Bar Lawyer Assistance Program ("LAP") and completed the intake process. On January 18, 2007, respondent signed a pre-enrollment assessment agreement with LAP. At the conclusion of the process, respondent signed a long-term participation plan with LAP on July 24, 2007.

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In the Matter of ALLISON R. PHARIS	Case number(s): 05-005117-PEM
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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 and Conclusions of Law.

Respondent enters into this stipulation as a condition of his/her participation in the Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Program Contract.

If the Respondent is not accepted into the Program or does not sign the Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

If the Respondent is accepted into the Program, upon Respondent's successful completion of or termination from the Program, this Stipulation will be filed and the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Statement Re: Discipline shall be imposed or recommended to the Supreme Court.

4 Nov 2007

Date



Respondent's Signature

ALLISON R. PHARIS

Print Name

11/16/07

Date



Deputy Trial Counsel's Signature

Print Name

CYDNEY BATCHELOR

Print Name

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In the Matter Of ALLISON R. PHARIS	Case Number(s): 05-O-05117-PEM
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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 stipulation as to facts and conclusions of law is APPROVED.
- The stipulation as to facts and conclusions of law is APPROVED AS MODIFIED as set forth below.
- 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; or 3) Respondent is not accepted for participation in the Program or does not sign the Program Contract. (See rule 135(b) and 802(b), Rules of Procedure.)

Dec. 10, 2007
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. 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 December 10, 2007 , I deposited a true copy of the following document(s):

**CONFIDENTIAL STATEMENT OF ALTERNATIVE DISPOSITIONS AND
ORDERS (Rules Proc. of State Bar, rule 803 (a))**

STIPULATION RE FACTS AND CONCLUSIONS OF LAW

**CONTRACT AND WAIVER FOR PARTICIPATION IN THE STATE BAR
COURT'S ALTERNATIVE DISCIPLINE PROGRAM**

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

by personally delivering such documents to the following individuals at 180 Howard Street, 6th Floor, San Francisco, California 94105-1639:

**ALLISON R. PHARIS, ESQ.
CYDNEY BATCHELOR, ESQ.**

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **December 10, 2007**



Lauretta Cramer
Case Administrator
State Bar Court