

ORIGINAL

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<b>State Bar Court of California</b> Hearing Department <input checked="" type="checkbox"/> Los Angeles <input type="checkbox"/> San Francisco		
Counsel for the State Bar <b>FUMIKO D. KIMURA</b> Deputy Trial Counsel 1149 South Hill Street, 10th Floor Los Angeles, CA 90015 (213) 765-1380 Bar # 208763	Case number(s)  06-C-13418-RAP	(for Court's use)  <div style="text-align: center;"> <b>FILED</b>  <b>JAN 23 2007</b> <i>hrc</i>          STATE BAR COURT          CLERK'S OFFICE          LOS ANGELES       </div>
<input type="checkbox"/> Counsel for Respondent <input checked="" type="checkbox"/> In Pro Per, Respondent <b>Pamela Jean Elliott</b> 1800 S. Robertson Blvd., #948 Los Angeles, CA 90035 (310)591-6126 Bar # 163874	<div style="font-size: 2em; font-weight: bold;">PUBLIC MATTER</div>  <div style="font-size: 2em; font-weight: bold;">NOT FOR PUBLICATION</div>	
In the Matter of <b>PAMELA JEAN ELLIOTT</b>  Bar # 163874 A Member of the State Bar of California (Respondent)	Submitted to <input checked="" type="checkbox"/> assigned judge <input type="checkbox"/> settlement judge  <b>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND          DISPOSITION AND ORDER APPROVING</b>  <input checked="" type="checkbox"/> <b>REPROVAL</b> <input checked="" type="checkbox"/> <b>PRIVATE</b> <input type="checkbox"/> <b>PUBLIC</b>  <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 March 23, 1993  
(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.



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(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:  
\_\_\_\_\_ (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:**

Respondent was admitted to the State Bar of California on March 23, 1993 and has no prior record of Discipline.

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**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 one (1) year
- (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 reproof.
- (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 reproof.
- No MPRE ordered. Reason: The protection of the public and the interests of the attorney do not require passage of the MPRE in this case.
- (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:**

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

IN THE MATTER OF:        PAMELA JEAN ELLIOTT

CASE NUMBER:            06-C-13418-RAP

**PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING**

1.        This is a proceeding pursuant to sections 6101 and 6102 of the Business and Professions Code and rule 951 of the California Rules of Court.
2.        On July 7, 2006, Respondent was convicted of violating Vehicle Code section 23152 (b), driving while having a 0.08% or higher blood alcohol, a misdemeanor.
3.        On August 28, 2006, the Review Department of the State Bar Court issued an order referring the matter to the Hearing Department on the following issue:

(1) whether the facts and circumstances surrounding the offense involve moral turpitude or other misconduct warranting discipline

4.        On September 28, 2006, the Review Department augmented its August 28, 2006 order to include a hearing and decision recommending the discipline to be imposed in the event that the Hearing Department finds that the facts and circumstances surrounding the offense of which Respondent was convicted involved moral turpitude or other misconduct warranting discipline.

**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:

**Facts**

1.        Respondent was admitted to the practice of law in the State of California on March 23, 1993, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.

2. In November 2005, Respondent was in South Lake Tahoe to take care of her son who was ill. On November 11, 2005, at approximately 6:45 p.m., Respondent was driving on Lake Tahoe Boulevard when she was stopped by the South Lake Tahoe Police Department. Respondent was given a field sobriety test and a breath test. The breath test returned the results of 0.12% and 0.13%. Respondent was arrested for driving under the influence of alcohol and was taken into custody.

3. On July 7, 2006, Respondent was convicted of violating one count of Vehicle Code section 23152 (b), driving while having a 0.08% or higher blood alcohol, a misdemeanor. Respondent was sentenced to a summary probation for a period of 48 months with various terms and conditions including an 18-month alcohol program as she had a prior conviction in July 2001. Respondent's first conviction resulted from her arrest in October 2000 for driving under the influence of alcohol, and Respondent was convicted of violating Vehicle Code section 23103, reckless driving, a misdemeanor, in the Riverside County. In September 2006, Respondent enrolled in the Alternate Action Programs.

### **Conclusions of Law**

Respondent was convicted of violating Vehicle Code section 23152 (b), driving while having a 0.08% or higher blood alcohol, a misdemeanor, and the facts and circumstances surrounding her conviction involved other misconduct warranting discipline. Respondent acknowledges that by the conduct described above, she failed to support the laws of the State of California in wilful violation of the Business and Professions Code section 6068 (a).

### **PENDING PROCEEDINGS**

The disclosure date referred to, on page one, paragraph A (7), was January 12, 2007.

### **AUTHORITIES SUPPORTING DISCIPLINE**

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

Standard 1.3 states that the primary purposes of disciplinary proceedings conducted by the State Bar of California and of sanctions imposed upon a finding or acknowledgment of a member's professional misconduct are the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession. Rehabilitation of a member is a permissible object of a sanction imposed upon the member but only if the imposition of rehabilitative sanctions is consistent with the above-stated primary purposes of sanctions for professional misconduct.

Standard 1.6 states that the appropriate sanction for the misconduct found must be balanced with any mitigating or aggravating circumstances, with due regard for the purposes of imposing discipline.

Standard 3.4 states that final conviction of a member of a crime which does not involve moral turpitude inherently or in the facts and circumstances surrounding the crime's commission but which does involve other misconduct warranting discipline shall result in a sanction as appropriate to the nature and extent of the misconduct found to have been committed by the member.

### Case Law

The purpose of State Bar disciplinary proceedings is not to punish the attorney, but to protect the public, to preserve public confidence in the profession and to maintain the highest possible professional standards for attorneys. (*Chadwich v. State Bar* (1989) 49 Cal.3d 103, 111; *See also, Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1025.)

The standards provide guidance and deserve "great weight." (*In re Morse*, 11 Cal.4th 184, 205; *In re Naney* (1990) 51 Cal.3d 186, 190; *Van Sloten v. State Bar* (1989) 48 Cal.3d 921, 933, fn. 5.) "[A]dherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct." (*In re Naney, supra*, 51 Cal.3d at p. 190; see also *In re Brown* (1995) 12 Cal.4th 205, 220.) The California Supreme Court accepts a disciplinary recommendation resulting from application of the standards unless it has "grave doubts" about the recommendation's propriety. (*In re Morse, supra*, 11 Cal.4th at p. 206; *In re Lamb* (1989) 49 Cal.3d 239, 245.)

In *In re Kelley* (1990) 52 Cal.3d 487, the attorney was convicted of driving under the influence of alcohol with a prior conviction for the same offense and of violating the terms of her probation imposed for the first conviction. The prior conviction occurred about two and a half years before her second conviction. Her blood alcohol level in the second case was between 0.16% and 0.17%. The Supreme Court found that the attorney's behavior demonstrated a lack of respect for the legal system and an alcohol abuse problem, and determined that the imposition of a public reproof was appropriate in this matter as the facts and circumstances surrounding the misconduct involved other misconduct warranting discipline.

Unlike *Kelley*, Respondent was not on criminal probation when her second conviction occurred and her first conviction was for reckless driving while *Kelley* was twice convicted of driving under the influence of alcohol. Respondent's prior conviction occurred five years ago and her blood alcohol level in the second case was between 0.12% and 0.13%. Respondent stated in her response filed with the State Bar Court that at the time of her arrest, she was in Lake Tahoe in

order to take care of her son who was ill. She further explained that the offense occurred at a time when she had no intention of driving but as a result of circumstances relating to her son's care, she went to a market for him in the evening and was arrested for driving under the influence of alcohol. At the initial meeting with the State Bar, Respondent immediately acknowledged her wrongdoing and demonstrated remorse. Respondent fully cooperated with the State Bar throughout the disciplinary proceeding. Respondent was admitted to the State Bar on March 23, 1993 and has no prior record of discipline. In September 2006, Respondent began attending the alcohol program as ordered by the criminal court, and has provided proof of enrollment and attendance to the State Bar.

(Do not write above this line.)

In the Matter of PAMELA JEAN ELLIOTT Bar #: 163874	Case number(s): 06-C-13418-RAP
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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.

1-17-07 Pamela Elliott PAMELA JEAN ELLIOTT  
Date Respondent's signature Print name

\_\_\_\_\_  
Date Respondent's Counsel's signature Print name

1-18-07 [Signature] FUMIKO D. KIMURA  
Date Deputy Trial Counsel's signature Print name

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In the Matter of PAMELA JEAN ELLIOTT BAR # 163874	Case number(s): 06-C-13418
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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 reproval, 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 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.) **Otherwise** the stipulation shall be effective 15 days after service of this order.

Failure to comply with any conditions attached to this reproval may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.

01-22-07  
Date

  
RICHARD A. PLATEL  
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 Los Angeles, on January 23, 2007, 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:

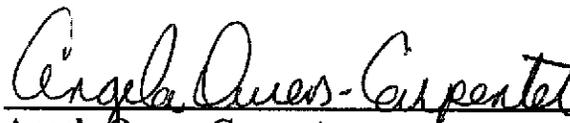
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**PAMELA JEAN ELLIOTT  
1800 S ROBERTSON BLVD #948  
LOS ANGELES CA 90035**

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

**FUMIKO KIMURA, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **January 23, 2007**.



**Angela Owens-Carpenter**  
Case Administrator  
State Bar Court