

(Do not write above this line.)

**State Bar Court of California  
Hearing Department  
Los Angeles**

Counsel For The State Bar  <b>Melanie J. Lawrence</b> <b>Deputy Trial Counsel</b> <b>1149 South Hill St.</b> <b>Los Angeles, CA 90015</b>	Case Number (s) <b>06-O-13789</b> <b>06-O-14272</b> <b>06-O-14321</b> <b>06-O-14808</b> <b>07-O-11644</b> <b>07-O-11970</b> <b>07-O-13538</b>	(for Court's use)  <div align="center"><b>PUBLIC MATTER</b></div>
Bar # <b>230102</b> Counsel For Respondent  <b>David Carr</b> <b>3333 Camino del rio S. Ste. 2</b> <b>San Diego, CA 92108</b>	<div align="center"> <b>FILED</b>  <b>NOV 04 2008</b>          STATE BAR COURT          CLERK'S OFFICE          LOS ANGELES       </div>	
Bar # <b>12451</b> In the Matter Of: <b>Lisa Marie Russell</b> <b>1901 First Avenue, 2<sup>nd</sup> Floor</b> <b>San Diego, CA 92101</b>  Bar # <b>182496</b>  A Member of the State Bar of California (Respondent)	Submitted to: <b>Assigned Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>ACTUAL SUSPENSION</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 **June 7, 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 **21** 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: **Costs to be paid in equal amounts prior to February 1 for 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.
- (5) ☐ **Restitution:** Respondent paid \$        o n        i n restitution to        without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted in good faith.
- (8) ☒ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances** are involved.

**Additional mitigating circumstances**

See page 20 for mitigating circumstances.

**D. Discipline:**

(1) ☒ **Stayed Suspension:**

- (a) ☒ Respondent must be suspended from the practice of law for a period of **2 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 **3 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 **18 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.
- (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 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 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**

☐ No MPRE recommended. Reason: \_\_\_\_\_

- (2) ☒ **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule **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 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 **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  
Lisa Marie Russell

Case number(s):  
06-O-13789 et.al.

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
Gregory Leitner	\$1,500	May 1, 2006
Marcus Coleman	\$2,000	January 4, 2006
Mary Alvarez	\$2,000	March 6, 2006

- ☒ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than **18 months after the imposition of discipline.**

### 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 reproval), 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:
- a. 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:        LISA MARIE RUSSELL

CASE NUMBER(S):        06-O-13789 ET AL.

**WAIVER OF VARIANCE BETWEEN NOTICE OF DISCIPLINARY CHARGES AND STIPULATED FACTS AND CULPABILITY:**

The parties waive any variance between the Notice of Disciplinary Charges filed on August 21, 2008, and the facts and/or conclusions of law contained in this stipulation and waive the issuance of an Amended Notice of Disciplinary Charges. The parties further waive the right to the filing of an Amended Notice of Disciplinary Charges and to a formal hearing on any charge not included in the pending Notice of Disciplinary Charges.

**A.    FACTS AND CONCLUSIONS OF LAW.**

06-O-13789

**Facts:**

1.    On May 3, 2005, Gregory D. Leitner ("Leitner") employed Respondent to represent him in a dissolution matter *Leitner v. Leitner*, Riverside County Superior Court case no. SWD006187, ("the Leitner matter"). Leitner paid Respondent \$2,500 as advanced attorney's fees.
2.    On October 12, 2005, Respondent directed Leitner not to appear in court for an Order to Show Cause ("OSC") hearing in the Leitner matter to be held on October 13, 2005.
3.    Respondent did not appear in court on behalf of Leitner on October 13, 2005. Respondent telephoned the court and left a message requesting a continuance of the Leitner matter, which was denied. The OSC hearing proceeded without the appearance of either the Respondent or Leitner.
4.    On October 13, 2005, the court issued orders in the Leitner matter regarding child support, spousal support, and payment by Leitner of his wife's car insurance.

5. In November 2005 Leitner fired Respondent and requested an accounting and the return of his client file. Leitner employed new counsel William Halsey ("Halsey") in November 2005, who filed a Substitution of Attorney form on December 29, 2005.
6. On January 6, 2006 and March 13, 2006, Halsey sent Respondent letters on behalf of Leitner requesting an accounting and a refund of Leitner's advanced fees from Respondent. Respondent received the letters. Respondent did not provide an accounting to Halsey or Leitner.
7. On April 17, 2006, Respondent sent Leitner a letter referring to an enclosed refund check for \$1,000. No check or accounting was enclosed in the letter. On April 28, 2006, Leitner received a letter from Respondent with a \$1,000 check enclosed, but again, she did not provide an accounting to Halsey or Leitner, and the refund amount was arbitrary.
8. On May 1, 4, 11, and 16, 2006, Leitner sent letters to Respondent demanding a billing statement for services rendered by Respondent. Respondent received the letters. Respondent did not provide an accounting to Halsey or Leitner.
9. After firing Respondent, Leitner and Halsey attempted to obtain a refund and an accounting from Respondent. Respondent failed to provide any accounting.

**Conclusions of Law:**

By directing her client not to appear at a scheduled OSC hearing, by making a request by voice mail, at the last minute, that her client's case be continued, by not being prepared to appear or having her client prepared to appear at a scheduled OSC hearing, and failing to appear in court for her client's scheduled OSC hearing, Respondent intentionally, recklessly or repeatedly failed to perform with competence in wilful violation of Rule 3-110(A) of the Rules of Professional Conduct. By not accounting to her client for the advanced fees paid by him despite his and his new counsel's requests, Respondent failed to render appropriate accounts to a client regarding client funds coming into her possession in wilful violation of Rule 4-100(B)(3).

**06-O-14272**

**Facts:**

10. On March 30, 2006, Francisca Pepper ("Pepper") employed Respondent to represent her in a family law matter *Pepper v. Pepper*, San Diego County Superior Court case no. DN140855, ("the Pepper matter"). Pepper paid Respondent \$2,000 as advanced attorney's fees plus \$300 in filing fees.

11. After April 2006 Pepper attempted to communicate with Respondent by e-mail and asked for a response from Respondent on or about May 18, 25, and 28, 2006, and June 25, 2006. Respondent did not respond to Pepper's e-mails.
12. Pepper attempted to communicate with Respondent by telephone on or about June 29, 2006, and July 5, 10, 13, and 17, 2006. She left messages for Respondent to telephone her, and requested responses to her messages. She did not speak to Respondent and Respondent did not reply to her messages.
13. On July 21, 2006, Pepper sent a letter to Respondent and terminated her services. In her letter she asked for a response from Respondent with an accounting and the return of her \$2,000 advanced fee. Respondent received the letter. Respondent did not respond to Pepper's letter.
14. Respondent failed to perform any work on behalf of Pepper and effectively, withdrew from employment.
15. On July 24, 2006, Pepper employed attorney Paula Kleinman ("Kleinman") to represent her in the Pepper matter. Kleinman sent Respondent a letter the same date and requested the return of Pepper's client file and a refund of pepper's unearned fees. Respondent received the letter.
16. On September 11, 2006, Kleinman received a telephone call from Respondent regarding the return of Pepper's client file. Still, Respondent did not return Pepper's client file.
17. On December 20, 2006, Respondent made a refund of unearned fees in the Pepper matter through her attorney without an accounting, and returned the client file on or around December 20, 2006, five months after her termination.

**Conclusions of Law:**

By failing to perform any legal services on behalf of Pepper and effectively withdrawing from employment without returning unearned advanced fees to her client and failing to promptly release Pepper's file to her or her new attorney despite repeated requests for the file, Respondent withdrew from employment without taking reasonable steps to avoid reasonably foreseeable prejudice to the rights of her client in wilful violation of Rule 3-700(A)(2) of the Rules of Professional Conduct. By failing to promptly respond to reasonable status inquiries of her client, Respondent wilfully violated Business and Professions Code, section 6068(m). By failing to provide an accounting to Pepper, Respondent failed to render appropriate accounts to a client regarding funds of the client coming into Respondent's possession in willful violation of Rule 4-100(B)(3) of the Rules of Professional Conduct.

Facts:

18. On March 14, 2005, Brian J. Lawler, Esq. ("Lawler") employed Respondent to represent him in a dissolution action Orange County Superior Court case no. 05D001969, (the "Lawler matter"). Lawler paid Respondent \$351.70 for filing fees and costs. Respondent filed an answer to the Lawler matter petition on or about March 17, 2005, and kept Lawler informed of the status of the Lawler matter through June 17, 2006.
19. After June 17, 2006, Respondent ceased communications with Lawler regarding the Lawler matter.
20. Lawler sent Respondent an e-mail on August 28, 2006, requesting a call back to discuss the Lawler matter. Respondent did not reply to the e-mail.
21. On August 29, 2006, Lawler went to Respondent's office to discuss the Lawler matter. Lawler was informed by Respondent's staff that she was too busy to talk to him so he left a message for Respondent to telephone him at her earliest convenience. Respondent did not respond to Lawler's message.
22. On August 30, 2006, Lawler telephoned Respondent at her office telephone number and left a message requesting a callback. That same date he also telephoned Respondent at her cell phone number and left a voice mail message to return his call. Respondent did not respond.
23. On August 30, 2006, Lawler mailed and faxed Respondent a termination letter and substitution of attorney for the Lawler matter, and requested the return of his client file. Respondent received the letter.
24. On September 5, 2006, Lawler received, by fax, from Respondent a signed substitution of attorney for the Lawler matter dated September 5, 2006.
25. On September 5, 2006, and again twice on or about September 6, 2006, Lawler telephoned Respondent at her office and left her messages to return his calls. Also, on September 6, 2006, Lawler telephoned Respondent on her cell phone and left a voice-mail message to return his client file and his call. Respondent did not respond to Lawler's telephone calls.
26. On September 12, 2006, Lawler telephoned Respondent's office and left a message and then sent Respondent a letter, by fax, requesting the return of his client file and his

advanced costs in the Lawler matter. Respondent did not respond to Lawler's communications.

27. Lawler received his file from Respondent on November 29, 2006, three months after his initial request for the file. At no time prior to that date, did Respondent release Lawler's file to Lawler or communicate with him regarding how he could obtain the file.

#### **Conclusions of Law:**

By failing to perform any services of value to Lawler and failing to respond to Lawler's attempts to contact her, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in violation of Rule 3-110(A) of the Rules of Professional Conduct. By failing to release Lawler's file to him until three months after Lawler terminated her and despite his requests for his file, Respondent failed, upon termination of employment, to release promptly to a client, at the request of her client, all the client papers and property in wilful violation of Rule 3-700(D)(1) of the Rules of Professional Conduct.

**06-O-14808**

#### **Facts:**

28. On January 4, 2006, Marcus Coleman ("Coleman") employed Respondent to represent him in a divorce action pending in the San Diego County Superior Court, *Coleman v. Coleman* case no. ED 65945, ("the Coleman Matter"). Respondent faxed her retainer agreement to Coleman who signed it and faxed it back to Respondent on January 9, 2006. Respondent then telephoned Coleman on January 9, 2006, and discussed Coleman's situation, and his wants and needs regarding the distribution of property and debts between he and his wife. (Coleman was at sea from time to time in his employment on active duty in the Navy and used Camille Evans ["EVANS"] as a personal representative for his personal dealings. Coleman informed Respondent that Evans was his contact for fax and telephone communications with Respondent.) During the month of January 2006 Coleman was in training at a U.S. Naval school.
29. Coleman initially paid Respondent \$1,000 by credit card as advanced attorney's fees with \$1,000 to follow. She subsequently debited Coleman's credit card in or about February for the \$1,000 balance owed by Coleman.
30. Respondent informed Coleman that she would telephone him when the settlement agreement with his wife was completed. Respondent did not file a substitution of attorney with the court and did not become the attorney of record for Coleman. On January 18, 2006, Respondent appeared as Coleman's attorney at a pretrial settlement

conference for the Coleman matter and stipulated to a continuance of the Coleman matter. Respondent did not file a substitution of attorney. On January 25, 2006, Respondent appeared as Coleman's attorney at a pretrial settlement conference in the Coleman matter. The court vacated the trial date in the Coleman matter set for January 30, 2006. Respondent did not file a substitution of attorney. The court took the Coleman matter off calender.

31. On January 30, 2006, Respondent prepared a Stipulation for Allocation of Property and Debts which she faxed to Evans. On February 9, 2006, Coleman signed the Stipulation for Allocation of Property and Debts proposed by Respondent, which Evans then faxed to Respondent on February 10, 2006.
32. On May 16, 2006, Respondent mailed a rough draft of a Marital Settlement Agreement ("MSA") to Coleman who was at sea. On May 23, 2006, Evans sent an e-mail inquiry to Respondent who responded by e-mail discussing issues raised by Coleman and Evans regarding the MSA.
33. On May 31, 2006, Coleman, through Evans, faxed back to Respondent the MSA and other documents requested by her in order to finalize Coleman's dissolution.
34. Coleman and Evans telephoned and e-mailed Respondent several times in June and July 2006 regarding the status of the Coleman matter. Respondent did not reply to their inquiries.
35. On July 10, 2006, Evans e-mailed and faxed Respondent requests to send her the final MSA for Coleman's signature. Respondent's office informed Evans that Respondent did not receive the draft MSA or related documents faxed by Evans on or about May 31, 2006. Coleman and Evans faxed the documents to Respondent's office.
36. On July 27, 2006, Coleman called the court and learned that Respondent had not filed a substitution of attorney or the Stipulation for Allocation of Property and Debts with the court, and that Respondent was not recognized as his counsel of record and Coleman remained in pro per.
37. Coleman and Evans made numerous telephone calls (approximately 75 calls) to the Respondent between July 10, 2006 and September 25, 2006, leaving messages requesting that Respondent call back, and also wrote to Respondent approximately twenty-six times: a letter on or about July 10, 2006, from Coleman; and e-mails (approximately 25) from Coleman and Evans complaining of lack of communication and performance and requesting a refund of Coleman's advanced fees. Respondent received Coleman's letter. Respondent failed to respond to any of Coleman's or Evans' attempts to contact her.

Respondent did not return any of Coleman's advanced fees.

**Conclusions of Law:**

By failing to file a substitution of attorney for the Coleman matter, by failing to perform legal services of any value to Coleman, by misrepresenting to Coleman that she was performing the services Coleman had employed her to perform, Respondent intentionally, recklessly or repeatedly failed to perform legal services with competence in violation of Rule 3-110(A) of the Rules of Professional Conduct. By failing to promptly respond to reasonable status inquiries of her client, Respondent wilfully violated Business and Professions Code, section 6068(m). By failing to promptly return the \$2,000 unearned advanced fee Coleman paid her despite his repeated requests that she do so, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in wilful violation of Rule 3-700(D)(2) of the Rules of Professional Conduct.

**06-O-13789, 06-O-14272, 06-O-14321, 06-O-14808**

As to each matter, the State Bar opened investigations in 2006. A State Bar investigator sent Respondent two letters requesting that she respond, in writing, by dates certain, to specified allegations of misconduct being investigated by the State Bar. On December 12, 2006, Respondent sent a response to the State Bar that was both untimely and unresponsive. By not providing a timely and responsive written response to the allegations, or otherwise cooperating in the investigation of these matters, Respondent failed to cooperate in a disciplinary investigation in wilful violation of Business and Professions code section 6068(i).

**07-O-11644**

**Facts:**

38. During the period between February 2007 and March 2007, Respondent maintained a client trust account at California Bank and Trust designated account no. 07-022751-01 ("Respondent's CTA").
39. During the period between February 2007 and March 2007, Respondent issued the following non-sufficient funds checks from her CTA:

<u>CHECK NUMBER</u>	<u>DATE ISSUED</u>	<u>PAYEE</u>	<u>CHECK AMOUNT</u>	<u>DATE PAID</u>
2023	02/05/07	Susan Christopher (Check notation: Retainer refund.)	\$2,000.00	NSF

40. Check No. 2024, payable to Lexis Nexis, was a personal or business related expense.
41. At the time Respondent wrote check numbers 2023 and 2024 she knew or should have known that there were not sufficient funds in her CTA to cover the checks.
42. On April 27, 2007, the State Bar opened an investigation, case no. 07-O-11644, pursuant to a bank notification of overdrafts on Respondent's Client Trust Account (the "NSF matter").
43. On May 8, 2007, a State Bar investigator sent a letter to Respondent regarding the NSF matter, requesting a written response by May 24, 2007. On May 24, 2007, the investigator sent a letter to Respondent again regarding the NSF matter, requesting a written response by June 5, 2007. Respondent received the letters.
44. The investigator's letters requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the NSF matter by May 24, 2007, and June 5, 2007, respectively. Respondent did not timely respond to either letter.
45. On July 7, 2007, Respondent did send an untimely and unresponsive letter regarding the NSF matter. In the letter, Respondent stated that the irregularities were caused by a client check for \$2,000 for advanced fees which was returned due to non-sufficient funds. In fact, at no relevant time did Respondent's bank return a check from any client for non-sufficient funds.

**Conclusions of Law:**

By leaving fees in her CTA for withdrawal as needed to pay personal or business expenses, Respondent commingled funds belonging to Respondent and her clients in a client trust account in wilful violation of Rule 4-100(A) of the Rules of Professional Conduct. By issuing the checks to Susan Christopher and Lexis Nexis drawn upon her CTA when Respondent knew or should have known there were insufficient funds on deposit to pay the check, Respondent failed to maintain the balance of funds received for the benefit of a client in wilful violation of Rules of Professional Conduct, Rule 4-100(A). By making misrepresentations to the State Bar about the cause and nature of the irregularities in Respondent's CTA, Respondent committed an act, or acts, involving moral turpitude, dishonesty or corruption in violation of Business and Professions Code section 6106. By not providing a timely and responsive written response to the allegations in the NSF matter or otherwise cooperating in the investigation of the NSF matter, Respondent failed to cooperate in a disciplinary investigation in wilful violation of

**07-O-11970**

**Facts:**

46. On March 6, 2006, Mary Alvarez ("Alvarez") employed Respondent to represent her in a dissolution matter involving child support/custody/visitation issues in *Alvarez v. Alvarez*, San Diego County Superior Court case no. DS19994, ("the Alvarez matter"). Alvarez paid Respondent \$2,000 in advanced fees.
47. A court hearing was scheduled for May 25, 2006. Respondent did not notify Alvarez to appear. Instead Alvarez's estranged spouse informed her of the court date and so, she appeared. On that date Respondent informed Alvarez that she could resolve the alimony issue in California on her own with her husband.
62. Through August 2006, Alvarez telephoned Respondent numerous times but was never able to speak with Respondent. Alvarez retrieved a copy of the court's minutes of the May 25, 2006, hearing from the court and found that a hearing had been scheduled for July 25, 2006. Alvarez did not have notice of the hearing and did not appear. Respondent also did not appear for the July 25, 2006, hearing.
63. After Alvarez found out that she and Respondent failed to appear on July 25, 2006, she telephoned Respondent and left messages for Respondent to call her, and sent three certified letters to Respondent on October 27, 2006, (with an enclosed substitution of attorney for Respondent's signature), December 1, 2006, and March 7, 2007, all asking for an itemization of services rendered. Respondent did not respond and did not return the substitution of attorney, signed.
64. In mid-January 2007, Respondent's secretary "Rita" telephoned Alvarez. Alvarez asked her to send her a substitution of attorney, an itemization of services rendered, and a refund of unearned funds from her advanced fees.
65. Respondent did not earn the full \$2,000 Alvarez paid her in advanced fees. She never provided Alvarez with an accounting or returned any unearned fees.

**Conclusions of Law:**

By failing to keep her client informed of scheduled court dates, by failing to make court scheduled appearances in her client's dissolution matter, and by failing to withdraw from her

client's dissolution matter at her client's request, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in violation of Rule 3-110(A) of the Rules of Professional Conduct. By failing to promptly return the unearned portion of the \$2,000 advanced fee Alvarez paid her despite her requests that she do so, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in wilful violation of Rule 3-700(D)(2) of the Rules of Professional Conduct. By failing to provide an accounting to Alvarez, Respondent failed to render appropriate accounts to a client regarding funds of the client coming into Respondent's possession in willful violation of Rule 4-100(B)(3) of the Rules of Professional Conduct. By failing to respond to Alvarez's requests for communication, made via telephone calls and letters, Respondent failed to respond to Alvarez's reasonable status inquiries in wilful violation of Business and Professions Code, section 6068(m).

**07-O-13538**

**Facts:**

66. In June 2005 Respondent was attorney of record in a family law matter entitled *Seinturier v. Haddad*, Riverside County Superior Court case no. RID 208297.
67. Respondent failed to appear in court at a scheduled hearing on or about June 20, 2005, in the *Seinturier* matter and the court imposed sanctions of \$1,500 upon Respondent for failing to appear. The sanctions were payable forthwith. Respondent did not pay the sanctions.
68. Respondent never reported the sanctions, in writing, to the State Bar.
69. On September 11, 2007, the State Bar opened a State Bar investigation, case no. 07-O-13538, pursuant to a notification of sanctions provided by attorney Linda Seinturier, ("the sanction matter").
70. On September 17, 2007, a State Bar investigator wrote to Respondent regarding the sanction matter, requesting a written response by October 2, 2007. On October 2, 2007, the investigator wrote to Respondent again regarding the sanction matter, requesting a written response by October 12, 2007. Respondent received the letters.
71. The investigator's letters requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the sanction matter by October 2, 2007, and October 12, 2007, respectively. Respondent did not send a written response regarding the sanction matter.

### **Conclusions of Law:**

By failing to pay court ordered sanctions, Respondent disobeyed or violated an order of the court requiring her to do or forbear an act or acts connected with or in the course of Respondent's profession which she ought in good faith to do or forbear in wilful violation of Business and Professions Code section 6103. By not reporting the \$1,500 sanction imposed by the Court on or about June 20, 2005, in writing, within 30 days to the State Bar, Respondent failed to timely report the imposition of a judicial sanction to the agency charged with attorney discipline in wilful violation of Business and Professions Code, section 6068(o)(3). By not providing a timely and responsive written response to the allegations in the sanction matter or otherwise cooperating in the investigation of the sanction matter, Respondent failed to cooperate in a disciplinary investigation in violation of Business and Professions Code, section 6068(i).

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

#### **STANDARDS:**

Standard 2.2(b) provides for three months actual suspension for commingling or any other violation of Rule 4-100, not including wilful misappropriation of entrusted funds and property.

Standard 2.3 provides for actual suspension or disbarment for an act of moral turpitude depending on the extent to which the victim of the misconduct is harmed or misled and depending upon the magnitude of the act of misconduct and the degree to which it relates to the member's acts within the practice of law.

Standard 2.4(b) provides for reproof or suspension, depending on the extent of the misconduct and the degree of the harm to the client, for wilfully failing to perform services in an individual matter or matters not demonstrating a pattern of misconduct or culpability of a member of wilfully failing to communicate with a client.

Standard 2.6 provides for disbarment or suspension, depending on the gravity of the offense or the harm, if any, to the victim for any violation of Business and Professions Code section 6068.

Standard 2.10 provides for a reproof or suspension for any wilful violation of the Rules of Professional Conduct or Business and Professions Code not specified in the Standards.

## CASE LAW:

In *Bledsoe v. State Bar* (1991) 52 Cal.3d 1074, a defaulting respondent with no prior record of discipline, was culpable of neglect in four client cases. Respondent also failed to communicate with his clients, failed to refund unearned fees, and failed to cooperate in a State Bar investigation. *Bledsoe* received five years suspension, stayed, with five years probation including conditions of two years actual suspension.

In *Matter of Brockway* (2006) 4 Cal. State Bar Ct. Rptr. 944, the Respondent was found culpable of misconduct in four client matters including failing to perform competently, improper withdrawal from employment, failing to render an accounting, seeking an agreement to withdraw a State Bar complaint, and failing to refund unearned fees. There were multiple factors in aggravation including an uncharged act of moral turpitude and the fact that *Brockway* had one prior record of discipline. *Brockway* received five years suspension, stayed, with five years probation including conditions of two years actual suspension.

## AGGRAVATING CIRCUMSTANCES.

Respondent's misconduct evidences multiple acts of wrongdoing.

## MITIGATING CIRCUMSTANCES.

Respondent has been in practice since 1996 with no record of prior discipline.

Respondent suffered emotional difficulties due to depression that led to the misconduct. These emotional difficulties were exacerbated by family problems including her mother's illness in 2005-2006, her marital dissolution in 2005-2006 and a difficult family situation regarding her niece in 2006. Respondent's emotional difficulties have since been resolved.

Respondent has cooperated with the State Bar in reaching a stipulation to settle these matters shortly after the Notice of Disciplinary Charges was filed.

## C. COSTS OF DISCIPLINARY PROCEEDINGS.


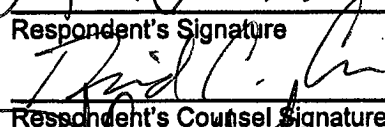

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of September 29, 2008, the costs in this matter are estimated at \$6,010. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

(Do not write above this line.)

In the Matter of Lisa Marie Russell	Case number(s): 06-O-13789, et.al.
--	---------------------------------------

### 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>10/27/08</u> Date	 Respondent's Signature	<u>LISA MARIE RUSSELL</u> Print Name
<u>10/27/08</u> Date	 Respondent's Counsel Signature	<u>DAVID C. CARR</u> Print Name
<u>10/28/08</u> Date	 Deputy Trial Counsel's Signature	<u>MELANIE J. LAWRENCE</u> Print Name

In the Matter Of  
Lisa Marie Russell

Case Number(s):  
06-O-13789

**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.

Because the stayed suspension is two years, the 1.4(c)(ii) provision is added to the stayed discipline (A.D.(1)(a)(i) - p.4).

Because the actual suspension could extend to two years or beyond, the 1.4(c)(ii) procedure is added to that portion of the discipline as well. (A.E.(1) - p.4).

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

10/30/08

Judge of the State Bar Court

**DONALD F. MILES**

## 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 November 4, 2008, 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:

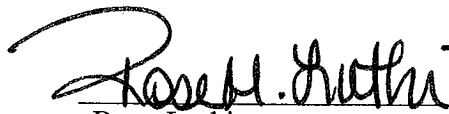
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

DAVID C. CARR, ESQ.  
LAW OFFICE OF DAVID CAMERON CARR  
3333 CAMINO DEL RIO S STE 215  
SAN DIEGO, CA 92108

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

MELANIE LAWRENCE, ESQ., Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on November 4, 2008.



Rose Luthi  
Case Administrator  
State Bar Court