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

<p>Counsel For The State Bar</p> <p>Nathan A. Reierson Deputy Trial Counsel 1149 South Hill Street Los Angeles, California 90015 Tel. (213) 765-1165 / Fax (213) 765-1383</p> <p>Bar # 204129</p>	<p>Case Number (s) 06-0-14151; 06-0-15126; 07-0-10587 and 07-0- 13867 - DFM</p>	<p>(for Court's use)</p> <p>FILED</p> <p>NOV 12 2008 <i>W/C</i></p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> <p>PUBLIC MATTER</p>
<p>Counsel For Respondent</p> <p>Michael G. Gerner Law Office of Michael G. Gerner A Professional Law Corporation 10110 Santa Monica Blvd., Suite 300 Los Angeles, California 90067 Tel. (310) 772-2207 / Fax (310) 772-2208</p> <p>Bar # 65906</p>	<p>Submitted to: Assigned Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>STAYED SUSPENSION; NO ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter Of: SUSAN JANE CHAPKIS</p> <p>Bar # 112401</p> <p>A Member of the State Bar of California (Respondent)</p>		

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 **December 12, 1983**.
- (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 **20** 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".



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- (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):
- costs added to membership fee for calendar year following effective date of discipline.
 - costs to be paid in equal amounts prior to February 1 for the following membership years: **three (3) 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 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. **See: Aggravating Circumstances, p. 16.**
- (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. **See: Mitigating Circumstances, p. 16.**
- (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. **See: Mitigating Circumstances, p. 16.**
- (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. **See: Mitigating Circumstances, p. 16.**
- (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

D. Discipline:

(1) **Stayed Suspension:**

(a) Respondent must be suspended from the practice of law for a period of **one (1) year**.

- 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:

The above-referenced suspension is stayed.

(2) **Probation:**

Respondent is placed on probation for a period of **two (2) years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court)

E. Additional Conditions of Probation:

- (1) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2) 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.
- (3) 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.
- (4) 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.

- (5) 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.

- (6) 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.
- (7) 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 State Bar Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: **Respondent lives in Oregon. There is no comparable class in that State. She will take classes in Law Office Management instead per agreement with the State Bar (See: Attachment, p. 19).**
- (8) 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.
- (9) The following conditions are attached hereto and incorporated:
- | | |
|---|--|
| <input type="checkbox"/> Substance Abuse Conditions | <input checked="" type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year. **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) **Other Conditions:**
- Nothing contained in this stipulation shall be construed as either a waiver of any existing rights of Respondent's clients to demand mandatory fee arbitration or a bar to submit an application to the State Bar of California's Client Security Fund.**

(Do not write above this line.)

Attachment language (if any):

See attached "STIPULATION RE: FACTS, CONCLUSIONS OF LAW AND DISPOSITION."

ATTACHMENT TO:

STIPULATION RE: FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Susan Jane Chapkis

CASE NUMBERS: 06-0-14151; 06-0-15126; 07-0-10587 and 07-0-13867

Respondent admits that the following facts are true and that she is culpable of the violations of the specified statutes and/or Rules of Professional Conduct as follows:

PRELIMINARY FACT

1. On June 17, 2006, Respondent entered into a Purchase Agreement of her law practice with Mario Valencia ("Valencia"). The reasons for the necessity of the sale of Respondent's practice are discussed in the Mitigating Circumstances section of this Stipulation.

Case No. 06-O-14151
(Cacciatore)

2. On June 22, 2005, Geraldine L. Cacciatore ("Cacciatore"), retained Respondent to represent her in a divorce matter filed in the Los Angeles County Superior Court entitled *In re Marriage of Geraldine Cacciatore and Norman J. Cacciatore*, case no. KD065296. At that time, Cacciatore paid Respondent \$3,000.00 in advanced fees for services. There was a written retainer agreement. The retainer provided that Respondent would send monthly statements. Respondent never sent Cacciatore monthly statements although Cacciatore requested them.
3. On January 4, 2006, the parties appeared in court, including Respondent. The parties came to a stipulated settlement.
4. On January 4, 2006, Respondent filed the stipulated judgment/settlement agreement with the court. The only remaining action was for Respondent to file the formal judgment. Until this was done, Cacciatore would not be divorced. From and after that date, Respondent did not contact Cacciatore, nor did she complete the divorce by the filing of the formal judgment.
5. After multiple efforts to contact Respondent by telephone, on July 31, 2006, Cacciatore called Respondent's office and discovered that Respondent's phone number was disconnected. There was no other listing. Cacciatore went to Respondent's office and found that a mortgage company name was on the door although Respondent's name remained on the door.

6. On August 2, 2006, Cacciatore received a letter from Respondent informing her that Respondent had decided to semi-retire and that she had sold her practice to attorney Mario Valencia ("Valencia"). There was no address provided for Valencia in the letter sent by the Respondent.
7. On August 5, 2006, Cacciatore wrote to Respondent indicating that to date, seven (7) months had passed and that Respondent had not concluded her matter. Cacciatore requested a refund of the fees paid to Respondent. Respondent received the letter but did not respond to it.
8. On August 18, 2006, Cacciatore hired attorney Daniel McMeekin ("McMeekin") to complete her divorce matter.
9. On that same date, McMeekin sent a letter to the Respondent directed to 8316 Red Oak Street, Rancho Cucamonga, California 91730, which remained her member records address as well as to her at the office of Mario Valencia, Esq., 5990 Sepulveda Boulevard, Suite 260, Van Nuys, California 91411 enclosing a substitution form signed by Cacciatore. Respondent received the document.
10. In early October 2006, Respondent requested a duplicate substitution claiming that she had not received the original one. Although Respondent claims that she signed the duplicate Substitution of Attorney sent to her by McMeekin's office at her request on or about October 28, 2006, McMeekin never received it. He filed a Motion to be substituted into the case in January 2007 and completed the entry of the formal judgment on behalf of Cacciatore.

Conclusions of Law as to Cacciatore (06-0-14151)

11. By failing to file a formal judgment between January 2006 and August 2006, Respondent failed to complete the divorce and the representation for which she was employed, in willful violation of rule 3-110(A) of the Rules of Professional Conduct.
12. By failing to promptly sign a substitution of attorney form to allow McMeekin to become Cacciatore's attorney, Respondent did not take reasonable steps to avoid foreseeable prejudice to her client in willful violation of rule 3-700(A)(2) of the Rules of Professional Conduct.
13. By failing to provide a monthly billing statement requested by Cacciatore, and as provided in her retainer agreement, Respondent failed to render appropriate accounts to her client, in willful violation of rule 4-100(B)(3) of the Rules of Professional Conduct.

Case No. 06-O-15126

Verlangieri

1. On December 8, 2005, Edward Verlangieri ("Verlangieri") employed Respondent to represent him with regard to an increase in child support to be paid to him as the custodial parent of his children, to transfer the case to San Bernardino County and to file an order to modify visitation with his children's mother.
2. On that date, Verlangieri paid Respondent the sum of \$3,200.00 by credit card. There was a retainer agreement, but Verlangieri was not given a copy of it because Respondent's copy machine was broken. Respondent provided a copy to the State Bar on or about February 16, 2006 in response to the State Bar's investigation of the matter.
3. A hearing on an OSC in Verlangieri's matter, filed by his former wife, had originally been scheduled for January 5, 2006. On or about January 4, 2006 (incorrectly written as year 2005), Respondent sent Angelique Bonanno ("Bonanno"), counsel for Verlangieri's former wife, a Substitution of Attorney, and a request for a continuance of the January 5, 2006 OSC. Bonanno contacted the court telephonically on January 5, 2006. The hearing was continued to March 15, 2006.
4. On March 13, 2006, Respondent wrote a letter to Bonanno. Respondent requested that Bonanno and her client stipulate to a change of venue. She requested that Bonanno agree to a "brief continuance" to allow her to "get current with" the case. She advised that due to a health issue with one of her children and staffing problems, she was a bit overwhelmed. Bonanno declined her request.
5. On March 15, 2006, the parties and counsel, including Respondent, appeared. The parties testified. The court reduced the child support to be paid to Mr. Verlangieri. The court set another hearing for May 5, 2006.
6. On May 5, 2006, Respondent appeared with Verlangieri. The court agreed to a change of venue, subject to the payment of fees to accomplish it.
7. From and after May 5, 2006, Respondent made no contact with Verlangieri. Bonanno was also unable to contact the Respondent either by telephone or by mail.
8. On October 2, 2006, Bonanno wrote a letter to the Respondent at her office address at 8316 Red Oak Street, Suite 205, Rancho Cucamonga, California 91730. Bonanno sought to meet and confer with regard to visitation issues. The letter was not returned to Bonanno. There was no response. Respondent had not provided Bonanno or the court with any other address.
9. On October 31, 2006, Bonanno filed an Order to Show Cause. The OSC was mailed to the Respondent at 8313 Red Oak Street, Suite 205, Rancho Cucamonga,

California 91730. This was an incorrect address, which should have been 8316 Red Oak Street.

10. On this same date, Verlangieri independently discovered that this Order to Show Cause had been filed.
11. In the beginning of November 2006, Verlangieri called Respondent's office. The telephone number was disconnected. Verlangieri drove to the Respondent's office and found that it had been abandoned. Respondent did not advise Verlangieri that she was moving. Verlangieri was able to find out that Respondent had left California and that she had sold her practice to an attorney named Mario Valencia ("Valencia"). However, Verlangieri's case was not one that Valencia had received pursuant to the purchase agreement of June 2006.
12. Verlangieri was given Respondent's telephone number in Oregon. He called it and left messages, including on November 4, and 6, 2006. He did not receive a return call from the Respondent.
13. On November 11, 2006, Verlangieri went to the Superior Court in Pomona, and paid the fee to transfer his case to San Bernardino, as per the court order of May 5, 2006.
14. On January 16, 2007, Verlangieri filed a motion to remove Respondent as his attorney of record on the grounds that he had been unable to locate her and that she had apparently abandoned his case. The hearing was set for February 22, 2007.
15. On January 22, 2007, Verlangieri appeared in court on the OSC filed by Bonanno. Respondent was not present.
16. On January 23, 2007, Verlangieri wrote a letter to an address he had obtained for Respondent at PO Box 5533, Eugene, Oregon 97405. He requested a refund of unearned, unreturned fees totaling \$2,315.00. He also provided a substitution of attorney for Respondent's signature.
17. On February 2, 2007, Verlangieri received the substitution signed by Respondent.
18. Also in February 2007, Respondent and Verlangieri spoke by telephone. Verlangieri requested copies of all documents that were sent to Respondent by the opposing party. He never received them.
19. As a mandatory condition precedent to the resolution of this matter by this stipulation, Respondent agreed to pay restitution to Verlangieri in the amount of \$2,315.00, and did so on or about October 17, 2008.

Conclusions of Law as to Verlangieri (06-0-15126)

20. By failing to take any action on Verlangieri's case from and after May 2006, by failing to advise her client that she was no longer in California, by failing to protect Verlangieri's interests including taking steps to obtain those objectives for which she was employed, Respondent failed to competently perform for her client, in willful violation of rule 3-110(A) and failed to take reasonable steps to avoid foreseeable prejudice to her client in willful violation of rule 3-700(A)(2) of the Rules of Professional Conduct. By failing to advise her client that she had moved out of the state and that she had ceased work on his case, Respondent failed to keep her client reasonably informed of significant developments in his case, in willful violation of section 6068(m) of the California Business and Professions Code.
21. By failing to refund \$2,315.00 of the \$3,200.00 she was paid, and by failing to return Verlangieri's file, Respondent willfully violated rule 3-700(D)(1) and 3-700(D)(2) of the Rules of Professional Conduct.

Case No. 07-0-10587

Mahlum

1. In January 2006, Mercedes Greene ("Greene") employed the Respondent to represent her with regard to two matters, first, a divorce, *Nguyen v. Greene*, Superior Court, County of San Bernardino, Barstow, BFL 0077921. Greene paid the Respondent the sum of \$3,000.00 as an advanced fee for both matters. The second, a criminal matter, was resolved by the Respondent.
2. Roberta Taylor ("Taylor") represented Greene's husband. On May 15, 2006, the parties and counsel appeared in court for an Order to Show Cause. The Order to Show Cause was heard and the court took the matter under submission. The Court issued its order on May 23, 2006.
3. Taylor left messages on Respondent's office telephone number on July 6, July 13, July 17, and July 23, 2006 related to the case, including the need for Respondent to Amend the Petition. Respondent made no reply to Taylor. On or about August 3, 2006, Taylor again called Respondent's office telephone number and found it was disconnected. She attempted to call again on August 14, 2006 and the number remained disconnected. Taylor checked the State Bar of California website and the disconnected number still showed as current for the Respondent.
4. On August 14, 2006, there was a Case Management Conference. Respondent did not appear. Greene appeared. She advised the court that she had not been able to contact the Respondent.
5. The court set a Mandatory Settlement Conference for September 16, 2006.

6. On August 18, 2006, Taylor wrote a letter to Respondent directed to her member records address at 8316 Red Oak Drive, Suite 205, Rancho Cucamonga, California 91730. The letter was not returned to Taylor. Taylor noted that she had repeatedly attempted to contact the Respondent by telephone, but that her telephone number was disconnected. She noted further that the disconnected telephone number was still listed on her membership records address with the State Bar. Taylor noted that she had served Demand for Production of Documents and Form Interrogatories upon the Respondent on May 5, 2006 with no response. She also noted that because Respondent had not appeared at the Case Management Conference on August 14, 2006, the Court had ordered Taylor to keep her apprised of the case status.
7. On August 21, 2006, Taylor mailed a notice of hearing to the Respondent set for September 12, 2006. The letter was mailed to the Respondent's office address in Rancho Cucamonga. It was not returned to Taylor.
8. On September 11, 2006, Taylor again attempted to call Respondent at her office number. It remained disconnected.
9. On September 12, 2006, Greene and Taylor appeared. Both advised the court that they had not been able to contact the Respondent. The Court set an Order to Show Cause Re: contempt and to relieve counsel for October 2, 2006. The court found that the Respondent had abandoned her client, Greene.
10. On October 2, 2006, Taylor and Greene appeared. Respondent did not appear. The Court relieved Respondent as counsel for Greene. The Court issued another OSC re: Sanctions to be heard on October 30, 2006. Respondent received actual notice of the hearing.
11. On October 24, 2006, Respondent filed a change of address with the court.
12. On October 26, 2006, Respondent sent an e-mail to Valencia, in which she requested that he appear on October 30, and blaming him for the failure to make notification of her new address. She wrote, in part: "I previously e-mailed a request that you please send out notice of our new address to opposing counsel and to the relevant courts. Ms. Greene has advised the court in connection with the Barstow family law matter... that she never received any form of notice from you or me and that she is unable to communicate with me, which is clearly false, as she talked with you and I talked with her on several occasions at my number in Oregon. A hearing is scheduled on this issue on October 30, 2006, which I need to address. Please provide me with all evidence of notice provided to her, even it was informal. A declaration would be helpful. I will have to have it faxed to opposing counsel and to the court today or tomorrow (at the latest)...."

13. On October 27, 2006, Respondent filed a declaration in support of her request to vacate the orders of the court. Although she was living out of state, the pleading listed her address as 8316 Red Oak Street, Suite 205, Rancho Cucamonga, California. She denied that she had failed to speak with Greene, advised that Greene had refused to substitute her out of the case, and that Greene had her Oregon number. She detailed her health circumstances and injuries due to an accident and other familial setbacks affecting her ability to practice.
14. The hearing was moved to November 6, 2006. Valencia made a special appearance at the hearing to advise the court of Respondent's injuries and illness.
15. The Court imposed sanctions of \$1,000.00 upon the Respondent. Respondent had actual notice of these sanctions. She neither reported them to the State Bar, nor did she pay them.
16. Although Respondent has drafted a motion to vacate sanctions, she has not filed one, nor has she made a motion to modify the sanctions order. The sanctions remain in force and remain unpaid by the Respondent.

Conclusions of Law as to Mahlum (07-0-10587)

17. By failing to appear at hearings, by failing to respond to pleadings on behalf of her client, by failing to respond to opposing counsel, by failing to protect her client's interests and by putting her client in a position where she effectively had no representation, Respondent failed to competently perform in willful violation of rule 3-110(A) of the Rules of Professional Conduct as well as failing to take reasonable steps to avoid reasonably foreseeable prejudice to her client in willful violation of rule 3-700(A)(2) of the Rules of Professional Conduct.
18. By failing to report to the State Bar, within 30 days of the time that she had knowledge of them, that she was sanctioned \$1,000.00 by the Court, the Respondent willfully violated section 6068(o)(3) of the California Business and Professions Code. By failing to pay or to successfully vacate the sanctions, Respondent has disobeyed or violated an order of the court to do or to forbear and act connected with or in the course of Respondent's profession which she ought in good faith do or forbear in willful violation of section 6103 of the California Business and Professions Code.

07-0-13867

Kimble

1. On April 9, 2004, Respondent was employed by Dorita Kimble ("Kimble") to represent her in a dissolution matter. There was a written retainer agreement. Kimble paid the sum of \$2,500.00 as an advanced fee. She later paid an additional

\$1,000.00. The written retainer also provided that the Respondent would send monthly statements to her client.

2. On September 16, Kimble, by Respondent filed a motion for sanctions against Kimble's husband. On September 28, 2005, the hearing was continued to October 21, 2005. Trial was set for January 5, 2006.
3. From April 2004, when Respondent was employed, until October 21, 2005, Respondent worked on the case and Kimble was satisfied. However, beginning on October 21, 2005, Kimble began to have difficulty contacting Respondent.
4. Respondent did not appear on October 21, 2005. Opposing counsel Scott Streed ("Streed") appeared. The motion was continued to January 5, 2006, the same date as the trial. Notice was sent by Streed's office to Respondent on December 5, 2005, at her Rancho Cucamonga office address. Respondent had not provided any other address to the court or to opposing counsel. Respondent received the notice.
5. Between October 21, 2005 and January 4, 2006, Kimble attempted to contact Respondent numerous times. Kimble left messages with Respondent's husband as well as other staff and Respondent's answering system. She did not receive a return call until January 4th, the day before the next scheduled court hearing/trial of January 5.
6. On January 5, 2006, Respondent appeared with her client, Kimble. Although Streed filed a trial brief and an income and expense declaration, Respondent did not file anything. Stipulations were made between the parties. The Court ordered that the parties meet and confer regarding issues of community debts, vehicle and values of vehicles as well as timeshare prices related to community property. The Court further ordered that the parties exchange specified information related to an EEOC lawsuit. The court scheduled a further status conference for February 10, 2006 at 10 a.m. The trial date was set for February 24, 2006. Respondent had actual notice of this order as she was present. However, Streed also sent notice served upon Respondent's Rancho Cucamonga address.
7. On January 26, 2006, Respondent met with Kimble at her Rancho Cucamonga office. At that meeting Respondent requested more money as fees. Kimble requested a billing statement as required by the retainer agreement, which she had not heretofore received.
8. On January 28, 2006, Kimble wrote a letter to the Respondent expressing concerns about Respondent's representation, but also specifically requesting billing statements for the use of her initial retainer of \$2,500, for the use of the additional \$1,000 payment made by her, and billing statements for costs. She also requested copies of opposing counsel's last brief of January 5, 2006. She requested that Respondent mail subpoenas, confirm the actuary's court appearance with estimated testimony time requirements plus verification that his services could be paid by

credit card and verification related to a real property appraisal. This letter was delivered personally and was mailed. Respondent received it.

9. On February 10 2006, Respondent failed to appear in court. The court, on its own motion, set a hearing on sanctions related to Respondent's failure to appear and failure to comply with the court orders of January 5, 2006. The hearing was set for February 24, 2006. Respondent had notice of the hearing.
10. Respondent appeared on February 24, and gave reasons why she was not present for the conference of February 10, 2006. Streed advised that he had not received documents that were to be exchanged. The parties were ordered to meet and confer. Respondent then stated what records she gave to Streed, but the matter was continued again because Streed stated that he had not received all documents requested. The case was continued to May 4, 2006.
11. On March 6, 2006, Kimble hired a new attorney Gollub, Gosan and Ziff.
12. On March 9, 2006, Kimble wrote a letter to the Respondent, which Respondent received, terminating Respondent's services because of her performance. Again Kimble requested billing statements. She never received them from the Respondent.
13. Between March 2006 and May 3, 2006, Kimble and her new counsel sought to obtain the substitution of attorney. Respondent claimed to have returned the first copy. Kimble's new attorneys were about to file a motion to be substituted into the case, when Respondent returned a second copy of the substitution, signed by her.

Conclusions of Law as to Kimble (07-0-13867)

14. By failing to appear at two hearings, by failing to protect her client's interests and by putting her client in a position where she effectively had no representation, and by failing to promptly sign a substitution after she was terminated, Respondent failed to competently perform in willful violation of rule 3-110(A) of the Rules of Professional Conduct as well as failed to take reasonable steps to avoid reasonably foreseeable prejudice to her client in willful violation of rule 3-700(A)(2) of the Rules of Professional Conduct.
15. By failing to provide Kimble with billing statement as requested, Respondent failed to provide as requested by the client accountings of her work in willful violation of rule 4-100(B)(3) of the Rules of Professional Conduct.

PENDING PROCEEDINGS

The disclosure date referred to, on page one, paragraph (A)(7) was October 20, 2008.

COSTS OF DISCIPLINARY PROCEEDINGS

The Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of September 26, 2008, the costs in this matter are \$4,294.55. 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.

AGGRAVATING CIRCUMSTANCES

- In the Cacciatore matter, Respondent failed to file a formal judgment between January 2006 and August 2006, failing to complete the divorce and the representation for which she was employed. Respondent failed to promptly sign a substitution of attorney form to allow McMeekin to become Cacciatore's attorney. Respondent failed to provide a monthly billing statement requested by Cacciatore, and as provided in her retainer agreement.
- In the Verlangieri matter, Respondent failed to take any action on Verlangieri's case from and after May 2006, and failed to advise her client that she was no longer in California. Respondent failed to advise her client that she had moved out of the state and that she had ceased work on his case. Respondent failed to refund the unearned \$2,315.00 of the \$3,200.00 she was paid, and failed to return Verlangieri's file.
- In the Mahlum matter, Respondent failed to appear at hearings, failed to respond to pleadings on behalf of her client, and failed to respond to opposing counsel. Respondent failed to report to the State Bar, within 30 days of the time that she had knowledge of them, that she was sanctioned \$1,000.00 by the Court. Respondent failed to pay or to successfully vacate the sanctions.
- In the Kimble matter, Respondent failed to appear at two hearings. Respondent failed to provide Kimble with billing statement as requested.

MITIGATING CIRCUMSTANCES

- Respondent has been in practice over 24 years without prior discipline.
- In approximately January 2006, Respondent and her minor son were involved in an automobile accident. They were hit by a drunk driver. The Respondent and her son, who inherited it from Respondent, both suffer from a diagnosed sleep-related seizure disorder. This was aggravated for both of them as a result of the accident.
- After this accident and as a result of the need to take care of her own medical needs and disabilities and those of her son, Respondent came to the conclusion that she needed to give up her practice to which she could no longer devote her full attention. The conditions interfered with her ability to efficiently manage her sole practice. She therefore made a purchase agreement with Mario Valencia, Esq. on June 17, 2006.
- It was contemplated under the purchase agreement that Respondent would be actively involved in working cases, at least for a six month period until December 15, 2006, in order to promote a smooth transition of the practice. The agreement also contemplated that Respondent would make herself available for all contested trials for existing clients for which she was still attorney of record. It also anticipated that Respondent may work

on existing client files as Respondent deemed necessary, with due consideration to the desires of the client.

- On June 20, 2006, just after the signing of this agreement, Respondent was involved in another automobile accident, which further exacerbated seizure activity, and caused other injury including spinal. The injuries from this accident rendered her disabled.
- In the same month, June 2006, one week after Respondent's release from the hospital, one of Respondent's twin grandsons died in an unrelated incident, while the other remained in intensive care for approximately seven months.
- Respondent's husband was living in Oregon, where he was then employed. Respondent stayed there to allow him to take care of her and their children. However, in late 2007, Respondent's husband also lost his job. In addition to their medical struggles, financial ones arose as well.
- Respondent is not presently practicing law in California. She is not licensed to practice law in Oregon.
- Respondent received a pro bono certificate of award from the San Gabriel Valley Lawyer Referral Service in November 1987 in recognition of outstanding service in the senior citizens legal assistance program.
- Respondent understands that the clients matters which are the subject of this Stipulation and taking the concomitant steps to assure the transition of these clients to an attorney of their choice, were her entire responsibility and that she did not give attention to their needs as required by her obligations as an attorney. Respondent states that she deeply regrets this. It was not their responsibility to assess Respondent's circumstances; it was her responsibility to be sure that they were adequately notified and that their cases properly handled; however, the circumstances above provide compelling mitigation to warrant a tempering of the discipline appropriate.

OTHER CIRCUMSTANCES BEARING ON THE DISPOSITION

None.

AUTHORITIES SUPPORTING DISPOSITION

The determination of the appropriate sanction must begin with the purposes of attorney discipline and Standard 1.3 of the *Standards for Attorney Sanctions for Professional Misconduct*. The primary purposes are the protection of the public, the courts and the legal profession, the maintenance of high professional standards and the preservation of public confidence in the profession. The rehabilitation of the member is a permissible object and only if the imposition of rehabilitative sanctions (and arguably lesser sanctions) is consistent with the primary purposes.

The severity of the sanction is the most or least severe under standard 1.6, depending on the aggravating and mitigating circumstances in a particular case, and any limitations imposed by other standards. Standard 2.4 related to the type of conduct, which occurred in this case, including failures to perform and to communicate, effective withdrawal and failure to provide billing, vary according to whether or not there is a pattern in the failure. If there is a pattern of a failure then disbarment is the appropriate, even mandatory, discipline. Where there is no pattern, the standards allow for the wide variant of reproof to suspension. Standard 2.6 also has some

applicability in this matter, as it relates to the sanctions that were ultimately imposed on Respondent related to the Greene matter, and violations of sections 6068(o)(3) of the California Business and Professions Code and section 6103, also provide a wide range of response from disbarment to suspension.

The Supreme Court recognizes the importance of the Standards to promote consistency, and uniform application, but as they are not binding on the Supreme Court, the Court has recognized that there may be bases, both under the facts and given mitigation, to deviate from them, as does the Review Department, where unique factors (and justice) may warrant. (See *Silverton v. State Bar* (2005) 36 Cal.4th 113; *In the Matter of Van Sickle* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980).

Both before and after the adoption of the Standards in 1986, decisions in the areas of performance, communication and proper withdrawal, have run the gamut of discipline from actual suspension, for example, in the case of a single failure to perform in the one client case in the of *Harris v. State Bar* (1990) 51 Cal.3d 1082 to stayed suspension and probation in the case of four client matters, including failures to perform, communicate, improper withdrawal and failure to refund, without actual suspension in *Colangelo v. State Bar* (1991) 53 Cal.3d 1255. In each case, there were some articulated bases in the facts or mitigation or aggravation or law or a combination thereof that warranted the particular result, as appears to be the case in Respondent's matters.

While it is certainly clear that the Respondent failed several of her clients, one such failure leading to a \$1,000 sanction, that failure, for mitigation purposes, is balanced with the circumstances, which interposed themselves into her life and that of her family. She is also to be given some credit for her effort, though imperfect enough to warrant discipline, to transition out her practice. The problem was that client Cacciatore had a right to have her divorce completed, not almost completed, so that she had to hire another attorney and chase Respondent for a substitution which was never received. Client Verlangieri had a right to have his case properly pursued and it was Respondent's obligation to assure that it was happening, and that any notice of her departure from practice be clearly communicated to him. And while Respondent believed she had communicated sufficiently with client Greene, she did not appear nor did she assure that anyone else appeared until things became critical, and not only Ms. Greene but the opposing counsel reported they could not get action or response from her. Balancing what happened to these clients by Respondent's willful actions against the mitigation, it is not unreasonable to come to the conclusion that stayed time, probation with conditions, adequately protects the public, as well as the permissible object of rehabilitating the member. Thus, on the totality of the facts, aggravation and mitigation, as well as review of case law, and the primary purposes of discipline, for purposes of stipulation, stayed discipline appears to be an appropriate sanction.

In the Matter of
Susan Jane Chapkis

Case number(s):
06-0-14151; 06-0-15126; 07-0-10587 and 07-0-13867

A Member of the State Bar

Law Office Management Conditions

- a. Within days/ months/ years of the effective date of the discipline herein, Respondent must develop a law office management/organization plan, which must be approved by the Office of Probation. This plan must include procedures to (1) send periodic reports to clients; (2) document telephone messages received and sent; (3) maintain files; (4) meet deadlines; (5) withdraw as attorney, whether of record or not, when clients cannot be contacted or located; (6) train and supervise support personnel; and (7) address any subject area or deficiency that caused or contributed to Respondent's misconduct in the current proceeding.
- b. Within days/ months/**one (1)** years of the effective date of the discipline herein, Respondent must submit to the Office of Probation satisfactory evidence of completion of no less than **twelve (12)** hours of Minimum Continuing Legal Education (MCLE) approved courses in law office management, attorney client relations and/or general legal ethics. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for attending these courses (Rule 3201, Rules of Procedure of the State Bar.)
- c. Within 30 days of the effective date of the discipline, Respondent must join the Law Practice Management and Technology Section of the State Bar of California and pay the dues and costs of enrollment for year(s). Respondent must furnish satisfactory evidence of membership in the section to the Office of Probation of the State Bar of California in the first report required.

(Do not write above this line.)

<p>In the Matter of Susan Jane Chapkis</p>	<p>Case number(s): 06-0-14151; 06-0-15126; 07-0-10587 and 07-0-13867</p>
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SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Fact, Conclusions of Law and Disposition.

10/23/2008
Date


Respondent's Signature

Susan Jane Chapkis
Print Name

11-4-08
Date


Respondent's Counsel Signature

Michael G. Gerner
Print Name

11/4/08
Date


Deputy Trial Counsel's Signature

Nathan A. Relerson
Print Name

(Do not write above this line.)

In the Matter Of
Susan Jane Chapkis

Case Number(s):
06-0-14151; 06-0-15126; 07-0-10587 and 07-0-13867

ORDER

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

- The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- All Hearing dates are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 135(b), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

11/10/08
Date


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 November 12, 2008, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL SUSPENSION

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:

MICHAEL GALEN GERNER
MICHAEL G GERNER, A PROF LAW CORP
10100 SANTA MONICA BLVD #300
LOS ANGELES, CA 90067

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

NATHAN A. REIERSON, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on November 12, 2008.



Tammy Cleaver
Case Administrator
State Bar Court