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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b>		
<p>Counsel For The State Bar</p> <p><b>Larry DeSha</b>  <b>Deputy Trial Counsel</b>  <b>1149 S. Hill Street</b>  <b>Los Angeles, CA 90015</b>  <b>(213) 765-1336</b></p> <p>Bar # 117910</p>	<p>Case Number (s)</p> <p><b>06-O-14939-RAP</b></p>	<p>(for Court's use)</p> <p style="text-align: center; font-size: 24pt;"><b>FILED</b></p> <p style="text-align: center;">JUN 05 2009 <i>AOC</i></p> <p style="text-align: center;">STATE BAR COURT            CLERK'S OFFICE            LOS ANGELES</p>
<p>Counsel For Respondent</p> <p><b>Gastone Bebi</b>  <b>444 West "C" Street; Ste. 400</b>  <b>San Diego, CA 92101</b>  <b>(619) 237-0514</b></p> <p>Bar # 110183</p>	<p><b>NOT FOR PUBLICATION</b></p>	
<p>In the Matter Of:</p> <p><b>DEIRDRE MARY-ELLEN KRAFT</b></p> <p>Bar # 179539</p> <p>A Member of the State Bar of California            (Respondent)</p>	<p>Submitted to: <b>Settlement Judge</b></p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND            DISPOSITION AND ORDER APPROVING</p> <p><b>PRIVATE REPROVAL</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</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 6, 1995**.
- (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 **8** 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):
- costs added to membership fee for calendar year following effective date of discipline (public reproof)
  - case ineligible for costs (private reproof)
  - costs to be paid in equal amounts for the following membership years:  
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
  - costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
  - costs entirely waived
- (9) The parties understand that:
- (a)  A private reproof imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
  - (b)  A private reproof imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
  - (c)  A public reproof imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

**B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.**

- (1)  **Prior record of discipline** [see standard 1.2(f)]
- (a)  State Bar Court case # of prior case
  - (b)  Date prior discipline effective
  - (c)  Rules of Professional Conduct/ State Bar Act violations:
  - (d)  Degree of prior discipline
  - (e)  If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline."
- (2)  **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.

- (3)  **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4)  **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6)  **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7)  **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8)  **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

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

- (1)  **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious. **See Stipulation Attachment, para. 10.**
- (2)  **No Harm:** Respondent did not harm the client or person who was the object of the misconduct. **See Stipulation Attachment, para. 11.**
- (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. **See Stipulation Attachment, para. 12.**
- (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.

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- (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:**

**D. Discipline:**

- (1)  **Private reproof (check applicable conditions, if any, below)**
  - (a)  Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).
  - (b)  Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).

or

- (2)  **Public reproof (Check applicable conditions, if any, below)**

**E. Conditions Attached to Reproval:**

- (1)  Respondent must comply with the conditions attached to the reproval for a period of
- (2)  During the condition period attached to the reproval, 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 condition period attached to the reproval. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of the reproval during the preceding calendar quarter. Respondent must also state in each report whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 (thirty) days, that report must be submitted on the next following quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the condition period and no later than the last day of the condition period.

- (6)  Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the 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 conditions attached to the reprobation.
- (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)  Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year of the effective date of the reprobation.  
 No MPRE recommended. Reason: **Private Reprobation.**
- (11)  The following conditions are attached hereto and incorporated:
  - Substance Abuse Conditions                       Law Office Management Conditions
  - Medical Conditions                                       Financial Conditions

**F. Other Conditions Negotiated by the Parties:**

Attachment language (if any):

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

**IN THE MATTER OF:     DEIRDRE MARY-ELLEN KRAFT**

**CASE NO.:               06-O-14939-RAP**

**FACTS**

1.     On July 8, 2005, Respondent was hired by Linda Dias (“Dias”) for a dissolution of marriage. They signed a fee agreement providing that Respondent would work for up to 12.0 hours on the case for a minimum fee of \$2,100.00. Dias paid the \$2,100.00.
2.     On July 19, 2005, Dias reported that she and her husband had reconciled, and instructed Respondent to place the case on hold. On July 22, 2005, Dias requested a refund of any unearned fee. Respondent refused, citing that she had expended 6.37 hours on the case and was entitled to her minimum fee of \$2,100.
3.     On January 11, 2006, Dias informed Respondent that the reconciliation did not work, and instructed Respondent to proceed with the dissolution of marriage. Respondent agreed to credit Dias with the 5.63 hours remaining under the fee agreement, and sent Dias new forms to update and return. Dias did not provide the updated information.
4.     On June 6, 2006, Dias sent Respondent a letter terminating her services and requesting a refund of unearned fees. Respondent refused to refund anything, citing that she had spent a total of 9.58 hours on the case.
5.     On October 6, 2006, Dias sent a written complaint to the State Bar, alleging that Respondent had failed to perform, communicate, and provide a refund. On November 9, 2006, the State Bar notified Respondent of Dias’s allegations and requested Respondent’s written response. On December 9, 2006, Respondent sent her written response, denying any misconduct.
6.     On March 5, 2007, Dias sent Respondent a letter demanding a settlement offer within one week. Otherwise, Dias would request fee arbitration.
7.     On March 7, 2007, Respondent sent Dias a letter accusing Dias of making false claims to the State Bar concerning Respondent, but offering to refund \$1,050.00 if Dias would sign a written agreement to “waive any further claims and to stop any present claims that we have or may have pending against each other.” Dias rejected this offer by letter of March 20, 2007.
8.     On March 29, 2007, Respondent sent a second letter to Dias, still offering to refund the \$1,050.00 if Dias would agree to “waive any and all future legal or administrative rights.” As of that date, Dias’s remaining rights were to request fee arbitration and to determine whether it would be binding or nonbinding. Dias rejected Respondent’s offer and requested fee arbitration.

9. The parties subsequently agreed to binding arbitration, and the hearing was held on March 21, 2008. On April 4, 2008, the arbitrator issued the award, which held that Respondent was entitled to keep the entire \$2,100. Dias did not request reconsideration or other review, and the award became final on July 14, 2008.

10. This complaint from Dias is the only complaint ever filed with the State Bar against Respondent.

11. Dias took no action in response to Respondent's improper offer of settlement, and Respondent's misconduct caused no harm to Dias or the State Bar's investigation.

12. At all stages since the dispute between Dias and Respondent arose, Respondent was candid with Dias. During the State Bar's investigation of Dias's complaint, both Dias and her counsel have cooperated fully and have been candid at all times, including their prompt stipulation to all material facts.

### **CONCLUSIONS OF LAW:**

1. By accusing Dias of making false claims against Respondent to the State Bar, and then offering a refund of \$1,050.00 in exchange for stopping any present or pending claims, Respondent sought an agreement to withdraw a disciplinary complaint to the State Bar, in willful violation of Business and Professions Code, section 6090.5(a)(2).

### **DISMISSALS:**

1. The State Bar requests dismissal of Count One, alleging failure to refund an unearned fee in violation of Rule 3-700(D)(2), on grounds of lack of evidence. [Rule 262(a).]

2. The State Bar further requests dismissal of Count Three, alleging a threat of criminal charges to obtain an advantage in a civil dispute in violation of Rule 5-100(A), on the grounds of furtherance of justice. [Rule 262(e)(1).]

### **SUPPORTING AUTHORITY:**

Business and Professions Code section 6090.5(a) states its own range of discipline for violations of the statute. The range runs from private reproof to disbarment.

There is no other published authority for the appropriate discipline for a violation of the statute without some other violation.

### **PENDING PROCEEDINGS:**


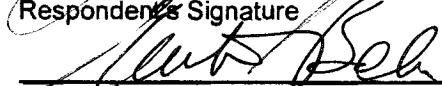
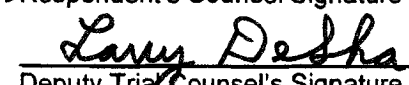
The disclosure date referred to on page 2, paragraph A.(7), was May 27, 2009.

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In the Matter of  <b>DEIRDRE MARY-ELLEN KRAFT</b>	Case number(s):  <b>08-O-14939-RAP</b>
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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.

<u>May 28, 2009</u> Date	 Respondent's Signature	<u>Deirdre Mary-Ellen Kraft</u> Print Name
<u>May 28, 2009</u> Date	 Respondent's Counsel Signature	<u>Gastone Bebi</u> Print Name
<u>May 29, 2009</u> Date	 Deputy Trial Counsel's Signature	<u>Larry DeSha</u> Print Name



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In the Matter Of  <b>DEIRDRE MARY-ELLEN KRAFT</b>	Case Number(s):  <b>08-O-14939-RAP</b>
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**ORDER**

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproval, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- The stipulated facts and disposition are APPROVED AND THE REPROVAL IMPOSED.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- All court dates in the Hearing Department are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 125(b), Rules of Procedure.) **Otherwise the stipulation shall be effective 15 days after service of this order.**

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

6/4/09  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Judge of the State Bar Court  
**RICHARD A. HONN**

## CERTIFICATE OF SERVICE

[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on June 5, 2009, I deposited a true copy of the following document(s):

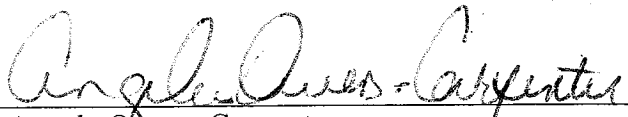
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND  
ORDER APPROVING

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:
- GASTONE BEBI  
444 WEST "C" STREET STE 400  
SAN DIEGO CA 92101
- by certified mail, No. \_\_\_\_\_, with return receipt requested, through the United States Postal Service at \_\_\_\_\_, California, addressed as follows:
- by overnight mail at \_\_\_\_\_, California, addressed as follows:
- by fax transmission, at fax number \_\_\_\_\_. No error was reported by the fax machine that I used.
- By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:
- by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

ERNEST LARRY DESHA, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on June 5, 2009.

  
Angela Owens-Carpenter  
Case Administrator  
State Bar Court