



ORIGINAL

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State Bar Court of California Hearing Department Los Angeles			PUBLIC MATTER
Counsel For The State Bar Bitu Shasty 1149 S. Hill Street Los Angeles, California 90015 Bar # 225177	Case Number (s) 06-O-15064-RAP	(for Court's use) <div style="font-size: 2em; font-weight: bold; margin-bottom: 10px;">FILED</div> <div style="font-size: 1.5em; font-weight: bold; margin-bottom: 10px;">AUG 14 2009</div> <div style="font-size: 0.8em; font-weight: bold; margin-bottom: 10px;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</div>	
Counsel For Respondent Arthur L. Margolis 2000 Riverside Drive Los Angeles, California 90039-3758 Bar # 132699	Submitted to: Settlement Judge		
In the Matter Of: ANITA D. ROSIN Bar # 198496 A Member of the State Bar of California (Respondent)	STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <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 **December 1, 1998**.
- (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 **14** 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: **Two 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. **See Attachment**
- (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. **See Attachment**
- (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. **See Attachment**
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances

Respondent has been a member of the California State Bar since 1998 and has no prior record of discipline, however, Respondent committed the current misconduct in her sixth year of practice and thus, the weight of the mitigating circumstance is diminished. See attachment for additional mitigating circumstances.

D. Discipline:

(1) **Stayed Suspension:**

(a) Respondent must be suspended from the practice of law for a period of **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:

(b) The above-referenced suspension is stayed.

(2) **Probation:**

Respondent must be placed on probation for a period of **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)

(3) **Actual Suspension:**

(a) Respondent must be actually suspended from the practice of law in the State of California for a period of **120 days**.

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:

Substance Abuse Conditions Law Office Management Conditions
 Medical Conditions 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 954-9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**

No MPRE recommended. Reason:

- (2) **Rule 955-9.20, California Rules of Court:** Respondent must comply with the requirements of rule 955-9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule

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within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.

- (3) **Conditional Rule 955-9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule ~~955-9.20~~, 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
ANITA D. ROSIN, No. 198496

Case number(s):
06-O-15064

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

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than

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 reprobation), 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: ANITA D. ROSIN

CASE NUMBER(S): 06-O-15064-RAP

FACTS AND CONCLUSIONS OF LAW.

Respondent Anita D. Rosin ("Respondent") admits that the following facts are true and that she is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

FACTS

1. On November 9, 2001, Fernando Juarez ("Fernando") and Veronica Juarez ("Veronica," collectively the "Juarezes") were involved in a motor vehicle accident (the "Accident") with a motor vehicle owned and/or operated by A-1 Carpet Market and/or Antonio Vazquez Arroyo (the "Defendants").
2. On April 26, 2002, the Juarezes employed Respondent to represent them regarding the Accident. The Juarezes signed a "Legal Services Retainer Agreement" ("Retainer Agreement") prepared by Respondent that set Respondent's fee as a contingency of: 33.33% of all sums if the matter was settled prior to the filing of a lawsuit or demand for arbitration; and 40% of all sums thereafter. The Retainer Agreement also permitted Respondent to recover her costs.
3. On April 26, 2002, Colonial Penn Franklin Insurance Company mailed a check for \$10,000 payable to Fernando and Respondent regarding the Accident.
4. On April 26, 2002, Colonial Penn Franklin Insurance Company mailed a check for \$8,330.92 payable to Veronica and Respondent regarding the Accident.
5. On May 7, 2002, Respondent deposited the checks totaling \$18,330.92 (\$10,000 + \$8,330.92) into an account at Wells Fargo Bank titled, "Law Offices of Anita D. Rosin Client Trust Account," Account No. 022-10xxxxx ("CTA").
6. On October 25, 2002, Respondent filed a civil complaint on behalf of the Juarezes in the Superior Court of California, County of Los Angeles ("Superior Court"), titled *Fernando Juarez, Veronica Juarez v. A-1 Carpet Market, Antonio Vazquez Arroyo*, Case No. VC 038391.
7. On January 7, 2004, the Juarezes settled their claims against the Defendants for payment of \$50,000 to Fernando and \$16,000 to Veronica.
8. On January 7, 2004, the Hartford Insurance Company mailed a check for \$50,000 payable to Fernando and Respondent regarding the Accident.
9. On January 7, 2004, the Hartford Insurance Company mailed a check for \$16,000 payable to Veronica and Respondent regarding the Accident.

10. 1) On February 11, 2004, Respondent deposited the checks totaling \$66,000 (\$50,000 + \$16,000) into the CTA. After depositing the \$66,000 into the CTA, the balance in the CTA was \$119,296.22.
11. Pursuant to the Retainer Agreement, Respondent was entitled to a contingency fee of \$24,000 from the settlement for Fernando ($\$10,000 + \$50,000 = \$60,000 \times 40\%$) and costs of \$3,115.24, which required Respondent to maintain \$32,884.76 in trust for Fernando ($\$60,000 - \$24,000 - \$3,115.24$).
12. Pursuant to the Retainer Agreement, Respondent was entitled to a contingency fee of \$9,732.37 from the settlement for Veronica ($\$8,330.92 + \$16,000 = \$24,330.92 \times 40\%$) and costs of \$3,188.55, which required Respondent to maintain \$11,410.00 in trust for Veronica ($\$24,330.92 - \$9,732.37 - \$3,188.55$).
13. As of February 11, 2004, Respondent was required to maintain the sum of at least \$44,294.76 ($\$32,884.76 + \$11,410.00$) in trust for the Juarezes.
14. Respondent could not distribute any of the settlement funds because there had not yet been any agreement from any of the providers for reductions in their bills.
15. Between on or about February 11, 2004 and on or about July 31, 2008, and without paying out any amounts to or on behalf of the Juarezes, the balance in the CTA fell below \$44,294.76 on repeated dates, including, February 27, 2004 when the balance was at \$40,782.92 through July 31, 2008, when the balance was at \$3,243.89.
16. Fernando incurred medical expenses of approximately \$187,306, while Veronica incurred medical expenses of approximately \$19,650.
17. Respondent was aware of the medical expenses incurred by the Juarezes and engaged in negotiations with their medical providers regarding payment of their expenses and/or liens, but Respondent did not pay any sums of money to them on behalf of the Juarezes because the negotiations between her and the medical providers were not yet complete.
18. In 2001, Respondent hired her husband, a software developer by trade, to work for her firm and handle all of her information technology, accounting and administrative tasks because the firm had grown to the point where she needed help.
19. After having difficulty setting up client accounts through QuickBooks, Respondent agreed to allow her husband to write a software program to keep track of the bank balance and checks that were issued.
20. The system appeared to be working fine and there were never any issues that either Respondent or her husband were aware of.
21. It was not until the State Bar notified Respondent of the Bar complaint in January 2007 that the problem with the Juarez funds was discovered. Respondent and her husband then realized that the system they had created had an unseen flaw that had failed to keep track of individual client balances properly.

22. Respondent was checking her monthly bank statements, however, she was not reconciling these statements with individual client accounts and files.
23. In January 2007, when Respondent first became aware of the problem with the Juarez account, she did not have the funds available to replenish her CTA account on behalf of the Juarezes.
24. On March 26, 2009, the Respondent filed a "Complaint in Interpleader" with Norwalk Superior Court, and deposited \$44,295.13 with the Clerk of the Court. The hearing for the Interpleader is set for August 9, 2009.
25. Respondent, through gross negligence, misappropriated at least \$41,050.87 (the amount Respondent was to maintain in trust for the Juarezes of \$44,294.76 less the lowest balance in the CTA of \$3,243.89) received on behalf of the Juarezes for personal use.

CONCLUSIONS OF LAW (COUNT ONE)

Respondent willfully violated Rules of Professional Conduct, rule 4-100(A) (Failure to Maintain Client Funds in Trust Account), by failing to maintain at least \$44,294.76 received on behalf of the Juarezes in the CTA, Respondent willfully failed to maintain the balance of funds received for the benefit of a client and deposited in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import.

CONCLUSIONS OF LAW (COUNT TWO)

Respondent willfully violated Business and Professions Code, section 6106 (Moral Turpitude), by failing to ensure that her CTA was properly maintained and reconciled, Respondent committed gross negligence which resulted in misappropriation of \$41,050.87.

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 October 30, 2008, in case no. 06-O-15064 and the facts and/or conclusions of law contained in this stipulation. Additionally, the parties waive the issuance of an amended Notice of Disciplinary Charges. The parties further waive the right to a formal hearing on any charge not included in the pending Notice of Disciplinary Charges.

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), June 18, 2009.

DISMISSALS.

The parties respectfully request the Court to dismiss the following alleged violations in the interest of justice:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
06-O-15064	3	Rules of Professional Conduct, rule 4-100(B)(3) Failure to Maintain Records of Client Funds
06-O-15064	4	Rules of Professional Conduct, rule 4-100(B)(4) Failure to Pay Client Funds Promptly

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of June 18, 2009, the approximate costs in this matter is \$3,654.00. 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.

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 1.3, Title IV, Standards for Attorney Sanctions for Professional Misconduct, provides that the primary purposes of the disciplinary system are: “the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession.”

Recently, the Supreme Court emphasized the importance of the standards and held that great weight should be given to the application of the standards in determining the appropriate level of discipline. The Court indicated that unless it has “grave doubts as to the propriety of the recommended discipline,” it will uphold the application of the standards. *In re Silvertown* (2005) 36 Cal. 4th 81, 91-92.

However, the Court in *Silvertown* also indicated that the State Bar may deviate from the Standards where there exists grave doubt as to the propriety of applying them in a particular case. (*Silvertown* 36 Cal. 4th at 92.) For example, deviation from the *Standards* may be appropriate where extraordinary circumstances exist or where the imposition of discipline called for by the Standards would be manifestly unjust.

Standard 2.2(b) provides that culpability of a member of commingling entrusted funds or property with personal property or the commission of another violation of rule 4-100, Rules of Professional Conduct, none of which offenses result in the wilful misappropriation of entrusted funds or property shall result in at least a three month actual suspension from the practice of law, irrespective of mitigating circumstances. Respondent failed to maintain \$44,294.76 on behalf of the Juarezes in her Client Trust Account.

Standard 2.3 provides that “[c]ulpability of a member of an act of moral turpitude, fraud, or intentional dishonesty toward a court, client or another person or of concealment of a material fact to a court, client, or another person **shall result in actual suspension or disbarment** depending upon 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.” Respondent committed an act of moral turpitude through gross negligence by not having a better reconciliation system in place for her client trust account.

In In the Matter of Blum (Review Dept. 2002) the Court held that “[w]hile moral turpitude as included in section 6106 generally requires a certain level of intent, guilty knowledge, or willfulness (citation omitted), the law is clear that where an attorney’s fiduciary obligations are involved, particularly trust account duties, a finding of gross negligence will support such a charge (citations omitted). The distinction between negligent and dishonest misappropriation can be very significant in determining appropriate discipline. In the Matter of Sklar (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602.

As discussed in more detail below, Respondent relied on and trusted her husband in setting up a new client trust accounting system for her office. While this reliance was reasonable, Respondent was grossly negligent in monitoring her individual client accounts in assuming that the system installed by her husband was functioning properly. A closer look at her monthly Client Trust Account bank statements would have alerted her to the fact that her balances were lower than the amount she was required to keep in her account on behalf of the Juarezes. Therefore, Respondent grossly negligent by not having a properly set-up reconciliation system.

MITIGATING CIRCUMSTANCES

Good Faith. (Standard 1.2(e)(ii))

Respondent hired her husband, a software developer by trade, to work for her firm in 2001 to handle all of her information technology, accounting and administrative tasks because the firm had grown to the point where she needed help. After having difficulty setting up client accounts through QuickBooks, Respondent agreed to allow her husband to write a software program to keep track of the bank balance and checks that were issued. The system appeared to be working fine and there were never any issues that either Respondent or her husband were aware of. It was not until the State Bar notified Respondent of the Bar complaint in January 2007 that the problem with the Juarez funds was discovered. Respondent and her husband then realized that the system they had created had an unseen flaw that had failed to keep track of individual client balances properly. Respondent, in good faith, had believed her system of accounting was working properly.

Good Character. (Standard 1.2(e)(vi))

Respondent presented the State Bar with ten letters from a wide range of references in the legal and general communities attesting to her good character. These letters ranged from attorneys she has worked with to former and current clients. These letters attested to Respondent’s highly ethical character and trustworthiness. She is described as compassionate, kind, generous and extremely competent in her work.

Remorse. (Standard 1.2(e)(vii))

In March 2007, shortly after discovering the flaws in her accounting system, Respondent hired an accounting firm and a bookkeeper to set up a new accounting system for her office. The Law Offices of J. Douglas Jennings, helped Respondent establish new accounting and office procedures for handling her Client Trust Accounts. Furthermore, Respondent took a seminar in Accounting Principles/Quickbooks to better educate herself in understanding the new software system set up in her office.

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In the Matter of ANITA D. ROSIN, No. 198496	Case number(s): 08-O-15064-RAP
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SIGNATURE OF THE PARTIES

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

6-29-09
Date

ADROS
Respondent's Signature

ANITA D. ROSIN
Print Name

7/16/09
Date

Arthur L. Margolis
Respondent's Counsel Signature

ARTHUR L. MARGOLIS
Print Name

7/20/09
Date

Bita Shasty
Deputy Trial Counsel's Signature

BITA SHASTY
Print Name

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In the Matter Of
ANITA D. ROSIN, No. 198496

Case Number(s):
06-O-15064-RAP

ORDER

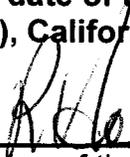
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- 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.)**

Date

8/4/09


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 August 14, 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:

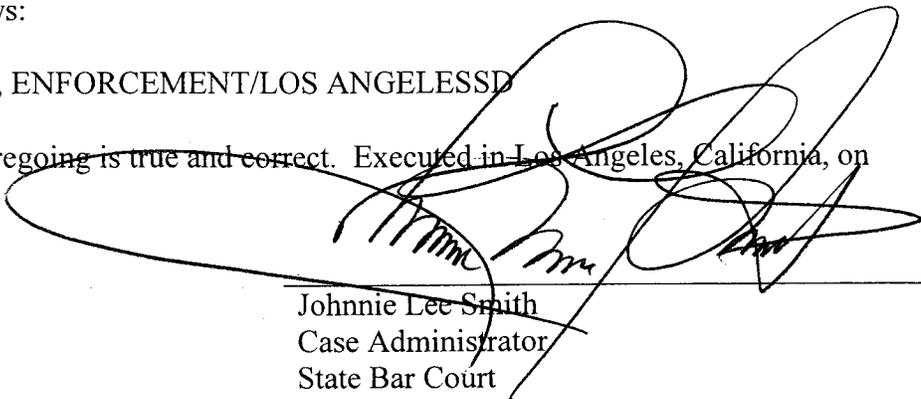
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

ARTHUR LEWIS MARGOLIS
MARGOLIS & MARGOLIS LLP
2000 RIVERSIDE DR
LOS ANGELES, CA 90039

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

Bitu Shasty, ENFORCEMENT/LOS ANGELES SD

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 14, 2009.



Johnnie Lee Smith
Case Administrator
State Bar Court