

(Do not write above this line.)

State Bar Court of California  
Hearing Department  
Los Angeles

ORIGINAL

<p>Counsel For The State Bar</p> <p><b>Margaret P. Warren</b> 1149 S. Hill Street Los Angeles, CA 90015-2299 (213) 765-1342</p> <p>Bar # 108774</p>	<p>Case Number (s) 07-O-10306-RAH</p>	<p>(for Court's use)</p> <p><b>FILED</b></p> <p>AUG 27 2010</p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro-Per Respondent</p> <p><b>Wendy A. Harte</b> 2001 Wilshire Blvd., Suite 400 Santa Monica, CA 90403 (310) 201-7999</p> <p>Bar # 243230</p>	<p><b>PUBLIC MATTER</b></p> <p>Submitted to: <b>Assigned Judge</b></p>	
<p>In the Matter Of: <b>Wendy A. Harte</b></p> <p>Bar # 243230</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p><b>STAYED SUSPENSION; NO ACTUAL SUSPENSION</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 **June 6, 2006**.
- (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 **11** 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."

(Do not write above this line.)

- (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: (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.
- (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. **Please see p. 10, below**
- (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.
- (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**

**Please see p. 10, below**

**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 **one (1) year**, 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: .
- (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 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:**

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

IN THE MATTER OF:                      WENDY A. HARTE

CASE NUMBER(S):                      07-O-10306-RAH

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

The parties hereby waive any variance between the Notice of Disciplinary Charges filed in this matter May 12, 2010 in case no. 07-O-10306, and the facts and 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 the filing of a Notice of Disciplinary Charges and to a formal hearing on any charge not included in the pending Notices of Disciplinary Charges.

**FACTS AND CONCLUSIONS OF LAW.**

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

**Case No. 07-O-10306**

**Count One**

**Facts:**

1. WENDY HARTE ("Respondent") was admitted to the practice of law in the State of California on June 6, 2006, and is currently a member of the State Bar of California.
2. Prior to her admission to the practice of law in the State of California on June 6, 2006, Respondent was not licensed to practice law or admitted to the practice of law in any jurisdiction.
3. In February 2006, Respondent sought skin care services at Kalologie Skincare Medical Group of California, Inc. ("Kalologie"). William Brennan ("Mr. Brennan") was the CEO of Kalologie.
4. At her first appointment with Kalologie in the latter part of February 2006, Respondent was asked by Jamie Fishman ("Jamie"), an employee of Kalologie, to complete and sign a client profile and consent form (the "consent form"). Respondent completed the consent form, identified herself to Jamie as attorney, and informed Jamie that, in Respondent's opinion, the form did not adequately protect Kalologie from potential lawsuits by its clients. Respondent further informed Jamie that the consent form should include provisions that the client waives any claims against Kalologie and/or releases Kalologie from any potential liability. Respondent suggested that Jamie tell her employer to look into revising the consent form.

5. In late February 2006, approximately two days after her initial appointment at the Kalologie salon, Respondent returned for a second appointment at the salon. At that time, Jamie informed Respondent that Mr. Brennan wanted to speak with Respondent, and gave Respondent Mr. Brennan's business card.

6. On March 17, 2006, Mr. Brennan and Respondent talked to each other for the first time. Respondent told Mr. Brennan she was an attorney, and said she thought the Kalologie consent form's legal language was inadequate and needed improvement. Respondent offered to help Mr. Brennan improve the legal language in the consent form, and requested she be compensated by Mr. Brennan for any such help with Kalologie skin care services and/or products. Mr. Brennan agreed to so compensate Respondent. At no time during this conversation did Respondent inform Mr. Brennan that she was not licensed to practice law in the State of California. Respondent did, however, truthfully inform Mr. Brennan, in an e-mail dated March 20, 2006: "[A]lthough I have a degree from USC Law School and I passed the bar a few years ago, my actual license is still pending the . . . background check the State [Bar] of California is conducting."

7. On March 17, 2006, Mr. Brennan e-mailed Respondent an electronic copy of the consent form. Between approximately March 17, 2006 and March 27, 2006, Respondent performed legal services on behalf of Mr. Brennan that included analyzing, revising and rewriting the language of the "acknowledgement and treatment consent" section of the consent form to read as follows:

I hereby consent to treatment by Kalologie and Kalologie Skincare Medical Group of California, Inc. for my skin care concerns. I understand that Kalologie treatments are limited only to skin care concerns such as blemishes, breakouts, irritation, redness, uneven pigmentation, anti-aging, hair removal, and skin/facial/body aesthetics. I understand that these treatments are in no way a substitute or replacement for care by a dermatologist for healthcare concerns including but not limited to the concerns above. I also understand that I, not Kalologie, am fully responsible for my own medical care for conditions including, but not limited to, skin cancer, melanoma, psoriasis and eczema. I hereby agree to release and hold harmless Kalologie and Kalologie Skincare Medical Group of California, Inc., its successors and assigns, heirs, employees and affiliates from any and all claims, demands, suits, and judgments arising out of or in connection with the receipt of the aforementioned treatments and/or products. I also agree to adhere to all post-treatment guidelines, if any. I expressly assume any and all risk of treatment, incidental or otherwise. I understand and agree that this is a release of liability and a waiver of any legal right that I may have against Kalologie and Kalologie Skincare Medical Group of California, Inc., its successors and assigns, heirs, employees and affiliates, to make claims or collect damages for any reason.

**Conclusions of Law:**

8. By holding herself out as attorney when she was not entitled to practice law, and by giving legal advice and performing legal services on behalf of a client when she was not entitled to practice law, Respondent violated Business and Professions Code, section 6068(a), by advertising or holding

herself out as practicing or entitle to practice law or otherwise practicing law when she was not an active member of the State Bar, in violation of Business and Professions Code section 6125 and 6126.

### **Count Three**

#### **Facts:**

9. In September 2005, Respondent made application to become a member of the State Bar of California. On October 20, 2005, the Committee of Bar Examiners of the State Bar of California (“Committee”) received Respondent’s Application for Determination of Moral Character (“Application”).

10. At no time between submitting her Application to the Committee and her admission to the practice of law did Respondent disclose to the Committee that she accepted employment by Mr. Brennan to perform legal services on his behalf in March 2006. Disclosure of this employment was required pursuant to Respondent’s continuing duty to update the information and responses in her Application until the date of her admission to the State Bar of California.

11. Respondent knew that she held herself out as attorney to both Jamie and Mr. Brennan, and performed legal services on behalf of Mr. Brennan, but she nevertheless knowingly or with gross negligence failed to inform the Committee of those facts.

12. Respondent’s failure to disclose to the Committee her employment by Mr. Brennan to perform legal services on behalf of Kalologie deprived the Committee of the ability to consider this information in its determination of Respondent’s moral fitness or capacity to practice law.

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

13. By failing to disclose to the Committee her employment by Brennan to perform legal services on behalf of Kalologie, Respondent wilfully violated Rules of Professional Conduct, rule 1-200(A), by knowingly failing to disclose a material fact in connection with an application for admission to the State Bar.

#### **PENDING PROCEEDINGS.**

The disclosure date referred to, on page 2, paragraph A(6), was July 23, 2010.

J



## 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>
07-O-10306	Two	Bus. & Prof. Code, section 6106

## AUTHORITIES SUPPORTING DISCIPLINE.

**Standard 2.6** of the Standards for Attorney Sanctions for Professional Misconduct provides that culpability of a member of a violation of section 6068 of the Business and Professions Code

shall result in disbarment or suspension depending on the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3  
[.]

**Standard 2.10** applies to a violation of rule 1-200(A) of the Rules of Professional Conduct, and provides:

Culpability of a member of a violation of any provision of the Business and Professions Code not specified in these standards or of a wilful violation of any Rule of Professional Conduct not specified in these standards shall result in reproof or suspension according to the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3.

**Standard 1.6 (a)** provides, in pertinent part: “. . . If two or more acts of professional misconduct are found or acknowledged in a single disciplinary proceeding, and different sanctions are prescribed by these standards for said acts, the sanction imposed shall be the more or most severe of the different applicable sanctions.”

**Standard 1.3** provides:

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

The protection of the public, the courts and the legal profession, and the preservation of public confidence in the legal profession, will be served by the disposition in this matter that focuses on the rehabilitation of Respondent.

**MITIGATING CIRCUMSTANCES.**

Mr. Brennan consulted with his business lawyer about the “acknowledgement and treatment consent” section of Kalologie Spa’s consent form, as revised by Respondent, and decided not to use the revised language in the consent forms the Spa asked patrons to complete.

Respondent has no prior record of discipline.

**STATE BAR ETHICS SCHOOL.**

Because respondent has agreed to attend State Bar Ethics School as part of this stipulation, respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School.

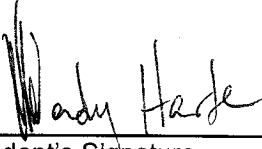
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In the Matter of <b>WENDY A. HARTE, #243230</b>	Case number(s): <b>07-O-10306-RAH</b>
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**SIGNATURE OF THE PARTIES**

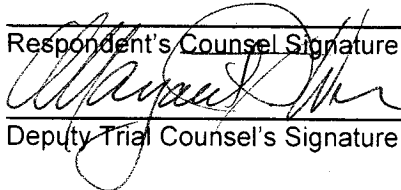
By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Fact, Conclusions of Law and Disposition.

8/19/10  
Date

  
Respondent's Signature

Wendy A. Harte  
Print Name

8/19/10  
Date

  
Respondent's Counsel Signature

Margaret P. Warren  
Print Name

Date

Deputy Trial Counsel's Signature

Print Name

(Do not write above this line.)

In the Matter Of <b>WENDY A. HARTE, #243230</b>	Case Number(s): <b>07-O-10306-RAH</b>
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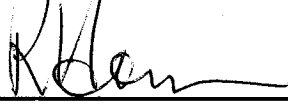
**ORDER**

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.)**

8/27/10  
\_\_\_\_\_  
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 August 27, 2010, 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:

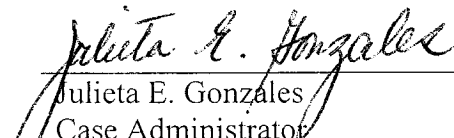
by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

WENDY A HARTE ATTORNEY AT LAW  
2001 WILSHIRE BLVD STE 400  
SANTA MONICA, CA 90403

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

Margaret P. Warren, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 27, 2010.

  
\_\_\_\_\_  
Julieta E. Gonzales  
Case Administrator  
State Bar Court