

ORIGINAL



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**State Bar Court of California
Hearing Department
Los Angeles
PROGRAM FOR RESPONDENTS WITH SUBSTANCE ABUSE OR MENTAL HEALTH ISSUES**

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| <p>Counsel For The State Bar</p> <p>MONIQUE T. MILLER DEPUTY TRIAL COUNSEL 1149 South Hill Street Los Angeles, California 90015-2299 213-765-1486</p> <p>Bar # 212469</p> | <p>Case Number (s) 07-O-14520</p> <p align="center">PUBLIC MATTER</p> | <p>(for Court's use)</p> <p align="center">FILED</p> <p align="center">MAR 31 2009 <i>[Signature]</i></p> <p align="center">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> |
| <p>Counsel For Respondent</p> <p>SUSAN L. MARGOLIS MARGOLIS & MARGOLIS 2000 Riverside Drive Los Angeles, California 90039 323-953-8996</p> <p>Bar # 104629</p> | <p>Submitted to: Program Judge</p> <p align="center">STIPULATION RE FACTS AND CONCLUSIONS OF LAW</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p> | |
| <p>In the Matter Of: REBECCA AMELIA TAPIA</p> <p>Bar # 83053</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 14, 1992**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, if Respondent is not accepted into the Lawyer Assistance Program, this stipulation will be rejected and will not be binding on the Respondent or the State Bar.
- (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, except for Probation Revocation proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **7** pages, excluding 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) 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.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7 and will pay timely any disciplinary costs imposed in this proceeding.

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 **93-C-12612**
- (b) Date prior discipline effective **July 27, 1997**
- (c) Rules of Professional Conduct/ State Bar Act violations: **Business and Professions Code Sections 6101 and 6102**
- (d) Degree of prior discipline **3 years stayed suspension; 3 years probation with 20 months actual suspension**
- (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. **Client, Elda Sanchez, did not lose her right to seek relief.**
- (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:

5. On October 24, 2005, attorney Stephen Landau (Landau) filed a substitution of attorney, substituting in as counsel for Juan Sanchez in the dissolution action. Landau served a copy of the substitution of attorney on Respondent.
6. On March 3, 2006, Landau filed a Notice of Motion for Bifurcation of Marriage in the dissolution action. As of March 3, 2006, Respondent still had not filed the Response on Elda's behalf and was not yet Elda's attorney of record in the dissolution action. As a result, on March 2, 2006, the Motion for Bifurcation was served on Elda, in pro per. Elda provided Respondent with a copy of the proposed Judgment of Dissolution. The hearing regarding the Motion for Bifurcation was scheduled for April 3, 2006. However, the proposed Judgment for Dissolution did not include the April 3, 2006 hearing date.
7. On March 3, 2006, Landau also filed an Amended Petition in the dissolution action. The Amended Petition asked that the court terminate jurisdiction to award spousal support to Elda.
8. On March 6, 2006, Respondent filed both the Response to the initial Petition and the UCCJEA. Thereafter, Respondent did not file any other documents on Elda's behalf in the dissolution action.
9. On March 15, 2006, Respondent wrote Landau advising him that she was representing Elda in the dissolution action. In the March 15, 2006 letter, Respondent represented to Landau that she would be responding to the Amended Petition. In the March 15, 2006 letter, Respondent provided Landau with a copy of the Response filed on March 6, 2006.
10. Although Respondent declared in her March 15, 2006 letter to Landau that Juan Sanchez's failure to pay child support since August 2005 needed to be addressed immediately, Respondent did not file any pleadings seeking child support or spousal support on Elda's behalf.
11. On April 3, 2006, the court in the dissolution action held the hearing regarding the Motion for Bifurcation. Neither Respondent nor Landau appeared at the April 3, 2006 hearing. On April 3, 2006, the court granted the motion for bifurcation.
12. As of April 5, 2006, Respondent had not filed a Response to the Amended Petition filed on March 3, 2006.
13. On April 5, 2006, the court entered a default judgment of dissolution in the dissolution of action. Pursuant to page two of the judgment form, the court terminated its ability to award spousal support to Elda. However, according to the attachment to the judgment, the court reserved various issues including property division, child support and spousal support. The court served the Judgment on Elda Sanchez.
14. In June 2006, Elda contacted Juan Sanchez regarding child support. At that time, Juan Sanchez informed Elda that they were divorced.
15. In June 2006, Elda contacted Respondent regarding her marital status. In or about June 2006, Respondent told Elda that she was divorced but told Elda the dissolution action had not been completed. Thereafter, Respondent did not take steps to complete the dissolution action.

16. In June 2007, Respondent apologized to Elda and refunded the \$1,000 in attorney's fees. At the time of the refund, there was no State Bar complaint filed against Respondent in this matter.

CONCLUSIONS OF LAW

17. By failing to timely file the Response, by failing to file a Response to the Amended Petition, by failing to file any pleadings other than the Response and the UCCJEA in the dissolution action, by failing to take any steps to seek child support or spousal support on Elda's behalf and by failing to take steps to assess the status of the dissolution action, Respondent intentionally, recklessly or repeatedly failed to perform legal services with competence in wilful violation of Rules of Professional Conduct, rule 3-110(A).

RULE 133 NOTICE OF PENDING PROCEEDINGS

Respondent was notified in writing of any pending investigations not included in this stipulation, pursuant to Rule 133(12), on November 24, 2008.

POTENTIAL INCREASE IN DISCIPLINE

Respondent understands that the matters in this addendum, being additional misconduct, may result in the Office of Chief Trial Counsel seeking – and/or the State Bar Court recommending – additional ADP conditions or increased discipline in the underlying cases. In addition, her length of participation in the court's Alternative Discipline Program may be extended.

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| In the Matter of REBECCA AMELIA TAPIA Bar # 83053 | Case number(s): 07-O-14520 |
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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 Facts and Conclusions of Law.

Respondent enters into this stipulation as a condition of his/her participation in the Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Program Contract.

If the Respondent is not accepted into the Program or does not sign the Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

*** If the Respondent is accepted into the Program, upon Respondent's ^{acceptance into} ~~successful completion of or~~ ~~termination from~~ the Program, this Stipulation will be filed and the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Statement Re: Discipline shall be imposed or recommended to the Supreme Court.

12/1/08
Date

Rebecca Amelia Tapia
Respondent's Signature

REBECCA AMELIA TAPIA
Print Name

12/1/08
Date

Susan L. Margolis
Respondent's Counsel Signature

SUSAN L. MARGOLIS
Print Name

Dec. 2, 2008
Date

Monique T. Miller
Deputy Trial Counsel's Signature

MONIQUE T. MILLER
Print Name

***Rule 803(b), Rules of Procedure of the State Bar of California, effective July 1, 2008.

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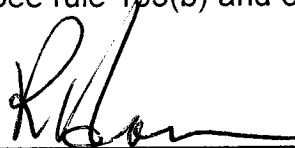
ORDER

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 stipulation as to facts and conclusions of law is APPROVED.
- The stipulation as to facts and conclusions of law is APPROVED AS MODIFIED as set forth below.
- 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; or 3) Respondent is not accepted for participation in the Program or does not sign the Program Contract. (See rule 135(b) and 802(b), Rules of Procedure.)

3-20-09
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 May 27, 2009, I deposited a true copy of the following document(s):

STIPULATION RE FACTS AND CONCLUSIONS OF LAW

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:

SUSAN LYNN MARGOLIS
MARGOLIS & MARGOLIS LLP
2000 RIVERSIDE DR
LOS ANGELES, CA 90039

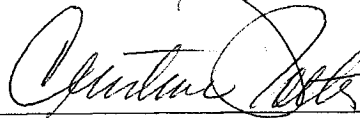
- by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:

- 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:

Monique T. Miller, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on May 27, 2009.



Cristina Potter
Case Administrator
State Bar Court