


State Bar Court of California Hearing Department San Francisco		PUBLIC MATTER
Counsel For The State Bar Robin B. Brune, Esq. 180 Howard Street San Francisco, California 94105 Bar # 149481	Case Number (s) 07-O-14961 08-O-10756	(for Court's use) FILED  JUN 19 2009 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
Counsel For Respondent Howard Melamed Attorney at Law 319 Lennon Lane Walnut Creek, California 94598-2418 Bar # 40962	Submitted to: Assigned Judge	
In the Matter Of: Susan A. Callender Bar # 187501 A Member of the State Bar of California (Respondent)	STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO 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 **January 27, 1997**.
- (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.
- (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

D. Discipline:

- (1) ☒ **Stayed Suspension:**

- (a) ☒ Respondent must be suspended from the practice of law for a period of **one 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 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 checked="" 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 language (if any):

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW & DISPOSITION

IN THE MATTER OF: **Susan A. Callender**
CASE NUMBERS: **07-O-14961 & 08-O-10756**

FACTS & CONCLUSIONS OF LAW.

1. Case Numbers 07-O-14961 & 08-O-10756

On June 15, 2007, the State Bar Office of Member Services, sent a letter, via United States mail, postage prepaid, to respondent at her then official membership address, maintained by the State Bar pursuant to Business & Professions Code § 6002.1. This address was, at the time, Susan A. Callender, Wilson, Sonsini, et. al., 650 Page Mill Road, Palo Alto, California 94304. At this time in June 2007, respondent was no longer in the employ of Wilson, Sonsini, et. al. When respondent left the employ of Wilson, Sonsini, et.al, in 2006, she did not update her membership records address with the State Bar.

The June 15, 2007, letter from the State Bar Office of Member Services stated that respondent was not in compliance with her MCLE requirements, and, if she failed to bring herself within compliance by August 15, 2007, she would be enrolled as an inactive member, not eligible to practice law in California.

Respondent did not respond to the June 15, 2007 letter from the State Bar Office of Member Services.

On July 25, 2007, the State Bar Office of Member Services sent another letter, via United States mail, postage prepaid, certified mail, return receipt requested, to respondent at her then official membership address, maintained by the State Bar pursuant to Business & Professions Code § 6002.1. This address was, at the time, Susan A. Callender, Wilson, Sonsini, et. al., 650 Page Mill Road, Palo Alto, California 94304. The letter was entitled "MCLE NON-COMPLIANCE FINAL NOTICE" and stated that respondent would be enrolled as an inactive member of the Bar if the State Bar did not receive proof of compliance by August 15, 2007. An authorized person at Wilson, Sonsini, signed the certified mail receipt as agent for respondent.

On July 25, 2007, Harold C. Thomas (hereinafter "Thomas") hired respondent to represent him and his associate, Debra Wilson (hereinafter "Wilson"), in an unlawful detainer action. Thomas and Wilson sought to evict some tenants, Sean Millis & Michelle Mattera from their property at 2710 Sutter Street, San Francisco, California. Thomas paid respondent the sum of \$500.00 on July 25, 2007, and an additional \$1,500.00 on August 14, 2007 for the legal representation.

On August 16, 2007, respondent was placed on inactive status, and not eligible to practice law, due to her failure to comply with the MCLE requirements.

On August 17, 2007, respondent wrote a letter, via United States mail, postage pre-paid, to the tenants at 2710 Sutter Street, San Francisco, California, enclosing a Three Day Notice to Perform Covenant or Quit. Respondent indicated that she was retained by the landlord, and respondent described herself as "Offices of Susan A. Callender, Esq." The tenants received the letter and were aware of its contents. Respondent wrote a second, similar letter on August 27, 2007, and mailed it in the same fashion. At the time respondent wrote the August 17, 2007 and August 27, 2007 letters to the tenants, she was suspended from the practice of law.

On August 24, 2007, State Bar Membership Services sent respondent a letter notifying her that she was enrolled as not eligible to practice law as of August 16, 2007. The State Bar Office of Member Services, sent the letter, via United States mail, postage prepaid, to respondent at her then official membership address, maintained by the State Bar pursuant to Business & Professions Code § 6002.1. This address was still, at the time, Susan A. Callender, Wilson, Sonsini, et. al., 650 Page Mill Road, Palo Alto, California 94304. Respondent still had not updated her membership records address with the State Bar.

On October 2, 2007, respondent served the tenants with another three-day notice to perform covenant or quit.

On October 17, 2007, respondent filed suit on behalf of Thomas entitled *Harold Thomas and Debra Wilson vs. Sean M. Millis*, Case Number CUD-07-623710, filed in Superior Court, County of San Francisco. Respondent identified herself on the pleadings as attorney for Thomas and Wilson. Respondent verified her pleadings, stating, "I represent the above-named plaintiffs."

At the time respondent filed suit and verified her pleadings, she was suspended from the practice of law for her failure to provide proof of her MCLE requirements. On October 25, 2007, the suit was served on the tenants.

Respondent was unaware that she was placed on inactive status and not eligible to practice law due to her non-compliance with the MCLE requirements when she undertook the aforementioned acts on behalf of the Thomas matter between August 17, 2007 and October 25, 2007.

On October 29, 2007 respondent submitted an MCLE compliance card to the State Bar, indicating that she attended MCLE classes on July 30, 2004, September 30, 2004, December 21, 2005, and October 24, 25, 26 & 28, 2007.

On October 30, 2007, attorney David Crow (hereinafter "Crow") who represented the tenants in the litigation, filed a Notice of Motion to Strike and a Demurrer to the Complaint. In his pleadings in support of his Motion to Strike, Crow advised the Court that respondent was ineligible to practice law. Crow stated to the Court that respondent was ineligible when she filed her pleadings, and ineligible when she served the three (3) day notice to quit. The Demurrer stated that respondent failed to comply with the San Francisco Residential Rent Stabilization and Arbitration Ordinance, Chapter 37(c), by failing to advise the tenants, in writing, that they can obtain advice regarding a notice to vacate from the Residential Rent Stabilization and Arbitration Board.

Respondent did not file a responsive pleading to Crow's Motion to Strike or Demurrer to the Complaint; instead, she withdrew the complaint. Respondent did not otherwise address the court regarding the suspension of her license.

On November 9, 2007, respondent was restored to active status of her license with the State Bar. Respondent was not eligible to practice from August 17, 2007 until she was reinstated on November 9, 2007.

Conclusions of Law

1. By, on or between August 17, 2007 and November 8, 2007, sending letters to the tenants identifying herself as counsel for Thomas/Wilson, and by filing pleadings on behalf of Thomas/ Wilson in *Harold Thomas and Debra Wilson vs. Sean M. Millis*, respondent represented herself as able to practice law, and did practice law, at a time when she was not licensed to do so, and thereby violated the laws of this State, in willful violation of Business & Professions Code §§ 6068(a), and 6125/6126.

2. By failing to update her membership records address when she left the employ of Wilson, Sonsini, et al, respondent failed to maintain her current address with the State Bar, in violation of Business & Professions Code § 6002.1, and thereby willfully violated Business & Professions Code § 6068(j).

2. Case Number 08-O-10756

Additional Statement of Facts pertaining to Case Number 08-O-10756

On November 21, 2007, respondent dismissed the case *Harold Thomas and Debra Wilson vs. Sean M. Millis*, Case Number CUD-07-623710, without prejudice. Her clients consented to the dismissal. Respondent thereafter sought to negotiate a settlement of the case, but was unable to do so. In December 2007, respondent withdrew from representing Thomas. When she terminated her services, respondent offered to refund her fees. Respondent received a total of \$2,000.00 in fees from Thomas. Respondent did not refund any monies to Thomas.

Conclusions of Law – Case Number 08-O-10756

1. By failing to refund her \$2,000.00 in fees, when the fees were for services that were rendered, in part, while she was suspended from the practice of law, and therefore ineligible to receive fees, respondent failed to refund unearned fees, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

PENDING PROCEEDINGS.

The disclosure date referred to, on page (1) one, paragraph A (7), was June 1, 2009.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of April 2009 the prosecution costs in this matter are \$2,688.80. 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.

Standards for Attorney Sanctions for Professional Misconduct

Standard 2.6 Culpability of a member of a violation of any of the following provisions of the Business & 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. Subsection (d) of Standard 2.6 refers to 6125 and 6126; therefore, the Standards specify, at minimum, a (stayed) suspension.

Case Law

Discipline concerning the unauthorized practice of law ranges from six months actual suspension to disbarment. These cases generally involve unlicensed practice while the attorney was suspended for disciplinary reasons. (See *In Re Naney* (1990) 51, Cal.3d 186 (disbarment, held himself out on resume, when not entitled to practice); *Morgan v. State Bar* (1990) 51 Cal. 3d. 598 (disbarment, undertook representation in family law matter practiced for at least two months when not entitled, had prior disciplinary history); *In the matter of Taylor* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563 (disbarment, undertook representation of three clients for a four month period while suspended, prior disciplinary history); *In re Cadwell v. State Bar*, (1975) 15 Cal.3d 762 (five year interim suspension, held himself out to another lawyer and negotiated a property settlement for a period of five months while

suspended, prior disciplinary history) *Farnham v. State Bar*, (1976) 17 Cal. 3d. 605 (six months actual suspension, undertook representation of two clients for a period of three months while suspended, prior disciplinary history.); *Arm v. State Bar*, (1990) 50 Cal. 3d 763 (18 months actual suspension, failed to disclose impending suspension to court and client, prepared legal papers while suspended, prior disciplinary history.); *In the matter of Robert Wyrick*, (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 83. (six (6) month actual suspension, acted as an arbitrator for a period of eight months while suspended from the practice of law, prior disciplinary history).

In one case, *Trousil*, the attorney made one appearance in a bankruptcy case when the attorney was suspended for non-payment of bar dues. However, he then had a second appearance in the same case after he was suspended for disciplinary reasons. Trousil had an extensive disciplinary history, including three priors, and significant mitigation, including a recent diagnosis and treatment for bi-polar disorder, Trousil received two years of suspension, stayed, two years of probation, and one month of actual suspension. *In the matter of Trousil* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 229.

In this case, respondent was suspended for a non-disciplinary reason (failure to pay bar dues) and the respondent has no actual knowledge of her suspension, due to her own malfeasance of not updating her membership records address with the Bar. Here, her suspension period lasted from August 17, 2007 through November 9, 2007, a period of approximately three months.

With respect to her fee, if, the respondent was suspended when the client retained her, the agreement to provide legal services for a fee would clearly be illegal. *In the matter of Taylor*, (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr 563, at 574. Here, respondent was licensed when she received the fee, but suspended shortly thereafter. She attempted to negotiate a resolution of the case, but this is after she dismissed the case when opposing counsel had filed a motion to dismiss due to her unlicensed status. It is questionable if the client received any value for her services. In negotiated resolution of this matter, respondent is stipulating to a violation of rule 3-700(D)(2), and disgorging her fee. Public policy favors disgorgement. "Permitting respondent to have earned any of the money paid him by Tanaka, even a reasonable fee under a quantum meruit theory, would condone his unauthorized practice of law. 'It is clearly contrary to the public policy of this state to condone a violation of the ethical duties which an attorney owes to his client.'" *Taylor*, supra, at 574, citing to *Kallen v. Delug* (1984) 157 Cal App. 3d. 940, 951.

MITIGATING CIRCUMSTANCES.

Standard 1.2(e)(iv) physical disabilities

Standard 1.2(e)(v) candor and cooperation

Standard 1.2(e)(vi) good character

FACTS SUPPORTING MITIGATING CIRCUMSTANCES.

Respondent left the employ of Wilson, Sonsini, et al., due to illness, and her illness contributed to her lack of attention to updating her membership records address upon her departure from the firm in 2006.

Respondent has been candid and cooperative in reaching a stipulation in this matter.

Respondent has produced six character reference letters. Three reference letters were from attorneys; one was from a founder and director of a nonprofit organization, and two were from the business community.

ADDITIONAL MITIGATING CIRCUMSTANCES

Respondent was admitted in July, 2007, and has no prior discipline.

Respondent was not aware of her suspension until the opposing counsel, Crow, brought it to her attention. Respondent immediately took steps to re-take all necessary classes in order to meet the MCLE compliance requirements.

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.

FINANCIAL CONDITIONS, RESTITUTION.

Within one (1) year from the effective date of discipline in this matter, respondent must make restitution to Thomas or the Client Security Fund if it has paid, in the principal amount of \$2,000.00 plus interest at the rate of 10% per annum from November 2007, and furnish satisfactory evidence of restitution to the Office of Probation. Respondent shall include, in each quarterly report required herein, satisfactory evidence of all restitution payments made by him or her during that reporting period.

Neither this Stipulation, nor participation in the Attorney Diversion and Assistance Program precludes or stays the independent review and payment of applications for reimbursement filed against the respondent pursuant to the Rules of Procedure, Client Security Fund Matters.

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

(Do not write above this line.)

In the Matter of
Susan A. Callender

Case number(s):
07-O-14961 & 08-O-10756

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.

4/27/09

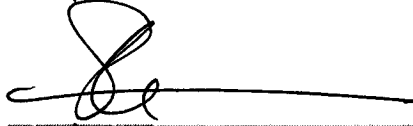
Date

4/28/09

Date

6/5/09

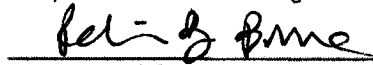
Date



Respondent's Signature



Respondent's Counsel Signature



Deputy Trial Counsel's Signature

Susan A. Callender

Print Name

Howard Melamed

Print Name

Robin B. Brune

Print Name

(Do not write above this line.)

In the Matter Of
Susan A. Callender

Case Number(s):
07-O-14961 & 08-O-10756

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.

At page 10, "Additional Mitigating Circumstances," the first sentence incorrectly states that Respondent was admitted to the State Bar in July 2007. The correct date is January 27, 1997.

At page 10, "Financial Conditions, Restitution", first paragraph:

- (a) Second line: insert "Harold C." before "Thomas"; and
- (b) Third line: date in November 2007 from which interest is to be calculated is November 1, 2007.

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

June 19, 2009

Lucy Armendariz
Lucy Armendariz
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 San Francisco, on June 19, 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:

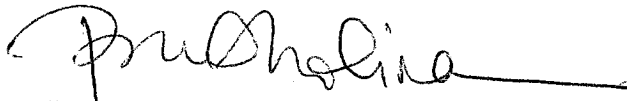
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

**HOWARD RICHARD MELAMED
319 LENNON LN
WALNUT CREEK, CA 94598 - 2418**

- ☐ 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:

ROBIN BRUNE, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on June 19, 2009.



Bernadette C.O. Molina
Case Administrator
State Bar Court