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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION			PUBLIC MATTER
<p>Counsel For The State Bar</p> <p>Dane C. Dauphine Supervising Trial Counsel 1149 South Hill St. Los Angeles, CA 90015-2299 (213) 765-1293</p> <p>Bar # 121606</p>	<p>Case Number(s): 08-O-11565</p>	<p>For Court use only</p> <p style="font-size: 2em; font-weight: bold;">FILED</p> <p style="font-size: 1.5em; font-weight: bold;">AUG 26 2011</p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>	
<p>Counsel For Respondent</p> <p>Susan L. Margolis Margolis & Margolis 2000 Riverside Dr. Los Angeles, CA 90039-3758 (323) 953-8996</p> <p>Bar # 104629</p>	<p>Submitted to: Assigned Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p>		
<p>In the Matter of: Gail M. Lisoni</p> <p>Bar # 90298</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>ACTUAL SUSPENSION</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 November 29, 1979.
- (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 10 pages, not including the order.



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- (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 5.130, Rules of Procedure.
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: over the next two billing cycles following effective date of disciplinary order. (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - Costs are 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.

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- (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. Respondent has been admitted to the practice of law for over 31 years without any prior discipline.
- (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. Respondent's candor and cooperation with the State Bar throughout the course of its lengthy investigation and her willingness to enter into a comprehensive stipulation at the outset of proceedings is deserving of significant mitigation credit. Std. 1.2(e)(v); In the Matter of Hertz (Review Dept. 1991) 1 State Bar Ct.Rptr. 456; In the Matter of Dale (Review Dept. 2005) 4 Cal. State Bar Ct.Rptr. 798, 811.
- (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. While Respondent relied upon her law partner of over 20 years to place the minor's funds in the blocked account as ordered by the Court, she has not disputed her responsibility to comply with the court's order. She closed the trust account shared with her law partner in February 2008 after learning that he had issued insufficient funds checks on the account. She has demonstrated remorse and recognition of her misconduct. (Std. 1.2(e)(vii)).
- (5) **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) **Good Faith:** Respondent acted in good faith.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.

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- (9) **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances:

Respondent has engaged in considerable volunteer work over the years. She volunteered at the Pasadena Union Foundation Homeless Shelter for 10 years, from approximately 1995 to 2005. She also participated in a free legal clinic at the shelter every other week for approximately two years. Respondent was a Eucharistic Minister to the Sick at Huntington Hospital through St. Andrews Catholic Church in Pasadena, from 1990 until 2007. Her charitable work is entitled to weight in mitigation. (In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907, 926.)

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:
- (b) The above-referenced suspension is stayed.

- (2) **Probation:**

Respondent must be placed on probation for a period of two 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 30 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 the 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:
- | | |
|---|---|
| <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 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 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**
- No MPRE recommended. Reason:
- (2) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) **Conditional Rule 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 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:**

7. The City of Los Angeles issued one settlement check in the amount of \$360,000, in settlement of both the Arias matter and Lisa's matter. On January 11, 2002, Respondent's firm received the settlement check. Respondent's law partner deposited the check in the firm's client trust account ("CTA"). Respondent and her law partner were the signatories on the CTA.

8. Respondent's law partner exercised control over the firm's trust account and the handling of settlement funds. Respondent relied upon him to handle the funds consistently with the court's 01/10/02 order. Respondent's law partner failed to deposit the minor's funds in a blocked account or otherwise comply with the terms of the court order, and Respondent did not follow through to ensure that her law partner properly deposited the funds received for the minor's settlement in a bank account on behalf of Lisa. Respondent relied upon her law partner who sought an agreement from Arias for a loan of settlement funds which included Lisa's funds as well.

9. Respondent's law partner took funds from the CTA received on behalf of Lisa. Thereafter, Respondent's law partner repaid to Arias the funds due to him and Lisa. All reimbursement was completed by May 9, 2007.

CONCLUSIONS OF LAW:

10. By failing to ensure that the settlement funds received on behalf of the minor Lisa Arias were maintained in a blocked account, Respondent acted in willful violation of Rules of Professional Conduct, rule 4-100(A).

11. By failing to comply with the court's order regarding the handling and deposit of the \$7,500 received on behalf of Lisa Arias, Respondent acted in willful violation of Business and Professions Code, section 6103.

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was August 10, 2011.

AUTHORITIES SUPPORTING DISCIPLINE.

According to the Standards for Attorney Sanctions, culpability of a member for commingling of 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 willful misappropriation of entrusted funds, shall result in at least a three month actual suspension, irrespective of mitigating circumstances. (Standard 2.2(b).) Culpability of failure to comply with a court order warrants disbarment or suspension depending on the gravity of the offense or the harm, if any. (Standard 2.6.)

Rule 4-100 is violated when an attorney commingles funds or fails to deposit or manage the funds in the manner designated by the rule . . ." (*Guzzetta v. State Bar* (1987) 43 Cal.3d 962, 976.) Although Respondent reasonably relied on her law partner of over 20 years to comply with the court's order regarding the deposit and maintenance of the minor's funds, Respondent still had a personal obligation of reasonable care to comply with the rules regarding the safekeeping and disposition of client funds, and her duty to monitor the use of the funds was non-delegable. (*Coppock v. State Bar* (1988) 44 Cal.3d 665, 680.)

In determining the appropriate level of discipline, the court may consider relevant case law and may deviate from the Standards when a balanced consideration of all factors, including mitigation and aggravation, warrants a lesser discipline. The facts of this matter are closely akin to those in *In the Matter of Blum* (Review Dept. 2002) 4 State Bar Ct. Rptr. 403 (recommending a 30 day actual suspension for grossly negligent trust account violations where attorney relied unreasonably on her law partner/spouse to handle trust funds); see also, *Sternlieb v. State Bar* (1990) 52 Cal.3d 317 (suspending attorney for 30 days for misappropriating about \$4,000 by acting unreasonably but not dishonestly). Considering the facts of this case and the compelling mitigation, a 30-day actual suspension as in the *Blum* and *Sternlieb* cases is an appropriate discipline.

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In the Matter of: Gail M. Lisoni, no. 90298	Case number(s): 08-O-11565
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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, Conclusions of Law, and Disposition.

<u>8-14-2011</u> Date	<u>Gail M. Lisoni</u> Respondent's Signature	<u>Gail M. Lisoni</u> Print Name
<u>8-18-11</u> Date	<u>Susan L. Margolis</u> Respondent's Counsel Signature	<u>Susan L. Margolis</u> Print Name
<u>8-22-11</u> Date	<u>Dane C. Dauphine</u> Deputy Trial Counsel's Signature	<u>Dane C. Dauphine</u> Print Name

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In the Matter of:
Gail M. Lisoni, no. 90298

Case Number(s):
08-O-11565

ACTUAL SUSPENSION 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:

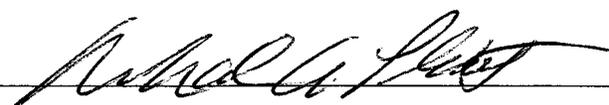
- The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- All Hearing dates are vacated.

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 5.58(E) & (F), 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

08-24-11

Judge of the State Bar Court


RICHARD A. PLATEL

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); 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 26, 2011, 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:

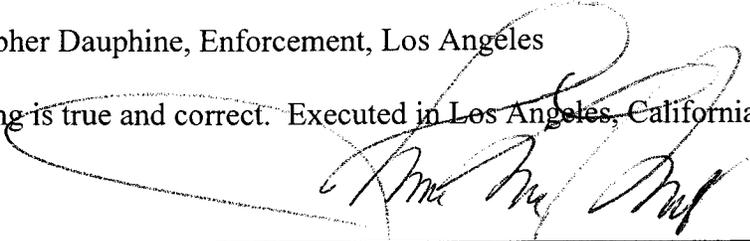
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

SUSAN LYNN 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:

Dane Christopher Dauphine, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 26, 2011.



Johnnie Lee Smith
Case Administrator
State Bar Court