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**State Bar Court of California
Hearing Department
San Francisco**

Counsel For The State Bar Mark Hartman Deputy Trial Counsel 180 Howard Street, 7th Floor San Francisco, CA 94105 Telephone: (415) 538 - 2558	Case Number (s) 08-O-14780	(for Court's use) FILED <i>ADS</i> APR 05 2010 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO PUBLIC MATTER
Bar # 114925 In Pro Per Respondent Phyllis Dianne-Lasater Loya 3377 Deer Valley Rd #302 Antioch, CA 94531	Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
Bar # 111767 In the Matter Of: Phyllis Dianne-Lasater Loya Bar # 111767 A Member of the State Bar of California (Respondent)		

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 **12/12/83**.
- (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.
- (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."

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- (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: **2011, 2012, 2013**
(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 **06-O-13147, et al**
 - (b) Date prior discipline effective **February 20, 2009**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **Rules 3-110(A), 3-300, and 4-100(B)(3); Section 6068, subdivision (m) of the Business and Professions Code (3 counts)**
 - (d) Degree of prior discipline **Public Reproval**
 - (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. **Uncharged violation of rule 1-110 of the 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. **See page 8.**
- (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. **See page 8.**
- (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

Community Service (see page 8)

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 **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)

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.

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- (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: **Respondent Completed Ethics School in December 2009.**

- (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:
 - Substance Abuse Conditions Law Office Management Conditions
 - Medical Conditions Financial Conditions

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation 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 DISCIPLINE**

In the Matter of: **Phyllis D. Loya**

Membership No.: **111767**

State Bar Case No.: **08-O-14780**

DISMISSALS

The State Bar of California (“the State Bar”) dismisses Count One (A) and Count One (B) of the Notice of Disciplinary Charges (“NDC”) in case number 08-O-14780 (“the current case”).

WAIVERS

The parties waive all variances between the facts and conclusions of law asserted in the NDC and the facts and conclusions of law contained in this Stipulation.

FACTS

Respondent admits that the following facts are true:

1. Respondent represented Francisco Garcia Alcantar (“Goya”) in Contra Costa County Superior Court case no. D02-03338 (“the Goya matter”).
2. On October 27, 2008, Goya submitted a complaint to the State Bar about respondent’s handling of the Goya matter.
3. On October 29, 2008, the State Bar opened an investigation about the Goya matter.
4. On February 4, 2009, State Bar Investigator Lisa Edwards (“Edwards”) sent an initial investigation letter (“initial letter”) to respondent regarding Goya’s complaint. The initial letter requested a written response from respondent by February 19, 2009. Respondent received the initial letter.
5. On February 6, 2009, respondent telephoned Edwards and left a message, in which she asked whether it would be alright for her response to include a letter from the translator whom she used in handling the Garcia matter. Edwards received respondent’s message.

6. On February 9, 2009, Edwards telephoned respondent's office and left a message, in which Edwards informed respondent that it would be alright for her response to include a letter from the translator whom she used in handling the Garcia matter. Respondent received Edwards's message.

7. By February 19, 2009, respondent did not provide a written response to the initial letter.

8. On February 20, 2009, a public reproof of respondent became effective in State Bar case numbers 00-O-13147 et al. The discipline included a one-year period during which respondent was required to comply with the provisions of the State Bar Act and the Rules of professional Conduct. The period started on February 20, 2009.

9. On March 10, 2009, Edwards sent a second investigation letter ("second letter") to respondent regarding Goya's complaint. The second letter requested a written response from respondent by March 24, 2009. Respondent received the second letter.

10. By March 24, 2009, respondent did not provide a written response to the second letter.

11. Respondent never provided a written response to the initial and second letters.

12. On September 10, 2009, Deputy Trial Counsel Robert Henderson ("Henderson") sent respondent a letter, in which he informed her about the State Bar's investigation of Garcia's complaint and asked her to meet with him before the filing of a Notice of Disciplinary Charges ("NDC"). The deadline for the meeting was September 30, 2009. Respondent received the letter, but did not respond.

13. On October 10, 2009, the State Bar filed the NDC.

CONCLUSION OF LAW

Respondent admits that she wilfully violated section 6068, subdivision (i) of the Business and Professions Code by failing to provide a written response to the initial investigation letter and the second investigation letter from Edwards.

AGGRAVATION

Prior Record of Discipline: Respondent has a prior record of discipline in State Bar case numbers 00-O-13147 et al.

Uncharged Ethical Violation: By failing to respond promptly in writing to the second letter from Edwards during the one-year conditional period of her public reproof, respondent willfully violated rule 1-110 of the Rules of Professional Conduct, which requires compliance with the conditions of a reproof.

MITIGATION

No Harm: Respondent did not harm Garcia.

Candor/Cooperation: Since the filing of the NDC, respondent has displayed candor to, and cooperation with, the State Bar in resolving the current case, especially by entering into this Stipulation.

Emotional/Physical Difficulties: Throughout 2009, respondent suffered from (1) severe, ^{PLL} continuing depression caused by the 2005 murder of her ~~only~~ child, Pittsburg Police Department Officer Larry Lassiter, in the line of duty and (2) grave life-threatening illnesses, which required hospitalizations in intensive-care units.

Severe Financial Stress: Throughout 2009, respondent suffered from severe financial problems, including her inability to pay medical bills and bankruptcy.

Community Service: From 2005 to the present, respondent has been active in groups providing help and support to the families of police officers who have died in the line of duty.

SUPPORTING AUTHORITY

The determination of discipline begins “by looking to the purpose of sanctions for attorney misconduct.” (*In re Morse* (1995) 11 Cal.4th 184, 205.) Standard 1.3 provides: “The primary purposes of disciplinary proceedings . . . 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.”

The standards provide guidance and deserve “great weight.” (*In re Naney* (1990) 51 Cal.3d 186, 190; *Van Sloten v. State Bar* (1989) 48 Cal.3d 921, 933, fn. 5.) “[A]dherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar misconduct.” (*In re Naney, supra*, 51 Cal.3d at p. 190; see also *In re Brown* (1995) 12 Cal.4th 205, 220.) The California Supreme Court accepts a disciplinary recommendation resulting from application of the standards unless it has “grave doubts” about the recommendation’s propriety. (*In re Morse, supra*, 11 Cal.4th at p. 206; *In re Lamb* (1989) 49 Cal.3d 239, 245.)

Standard 1.7(a) requires greater discipline in a second disciplinary proceeding than the discipline in a first disciplinary proceeding. Because the discipline in respondent’s prior cases was a public reproof, standard 1.7(a) calls for at least a stayed suspension in the current case.

Standard 2.6 requires disbarment or suspension for violating section 6068, subdivision (i) of the Business and Professions Code. Because of the facts of the current case, a stayed suspension would comply with the requirement of standard 2.6

NO ETHICS SCHOOL REQUIREMENT

Because respondent completed Ethics School in December 2009, she is not required to complete Ethics School in the current case. (Rules Proc. of State Bar, rule 290(a).)

MULTISTATE PROFESSIONAL RESPONSIBILITY EXAMINATION REQUIREMENT

Respondent must provide proof of passage of the Multistate Professional Responsibility Examination within one year of the effective date of the discipline in the current case.

ESTIMATED PROSECUTION COST

The estimated prosecution cost of the current cases is \$4,325.70. This sum is only an estimate and the final cost may differ from the estimated cost. If this Stipulation is rejected or if relief from this Stipulation is granted, the prosecution cost of the current case may increase because of the cost of further proceedings.

DATE OF DISCLOSURE OF ANY PENDING INVESTIGATION OR PROCEEDING

On March 8, 2010, the State Bar sent a disclosure letter by mail and e-mail to respondent. In this letter, the State Bar advised her of any pending investigations or proceedings against her other than the current case.

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In the Matter of PHYLLIS D. LOYA, No. 111767, A Member of the State Bar.	Case number: 08-O-14780
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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.

March 15, 2010 Phyllis D. Loya Phyllis D. Loya
Date Respondent's Signature Print Name

~~March 18, 2010~~ _____ _____
Date Respondent's Counsel Signature Print Name

March 18, 2010 Mark Hartman Mark Hartman
Date Deputy Trial Counsel's Signature Print Name

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In the Matter Of PHYLLIS D. LOYA, No. 111767	Case Number(s): 08-O-14780
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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.)**

April 5, 2010
Date

Pat McElroy
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 April 5, 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 San Francisco, California, addressed as follows:

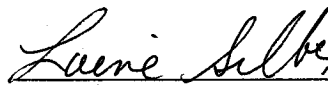
PHYLLIS DIANNE-LASATER LOYA
3377 DEER VALLEY RD #302
ANTIOCH, CA 94531

PHYLLIS D LOYA
4568 WILDCAT CIRCLE
ANTIOCH, CA 94531

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

MARK HARTMAN, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on April 5, 2010.



Laine Silber
Case Administrator
State Bar Court