


(Do not write above this line.)

State Bar Court of California
Hearing Department
Los Angeles **PUBLIC MATTER**

<p>Counsel For The State Bar</p> <p>Eli D. Morgenstern Deputy Trial Counsel The State Bar of California 1149 S. Hill Street Los Angeles, CA 90015-2299 Tel: (213) 765-1334</p> <p>Bar # 190560</p>	<p>Case Number (s) 09-H-11866</p>	<p>(for Court's use)</p> <p align="center">FILED</p> <p align="center">AUG 17 2010</p> <p align="center">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> <p align="center">kwiktag® 018 039 828</p> 
<p>In Pro Per Respondent</p> <p>Kathleen Gayle Alvarado San Bernardino District Attorneys Offc 8303 Haven Ave 1st Fl Rancho Cucamonga, CA 91730</p>	<p>Submitted to: Assigned Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p align="center">REPROVAL</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>Bar # 117690</p> <p>In the Matter Of: Kathleen Gayle Relyea a/k/a Kathleen Gayle Alvarado</p> <p>Bar # 117690</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 June 11, 1985.
- (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 12 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."

(Do not write above this line.)

- (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):
- costs added to membership fee for calendar year following effective date of discipline (public reproof)
 - case ineligible for costs (private reproof)
 - costs to be paid in equal amounts for the following membership years: following three billing cycles following the effective date of the discipline order.
(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
- (9) The parties understand that:
- (a) A private reproof imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
 - (b) A private reproof imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
 - (c) A public reproof imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

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 01-O-03419-RAH
 - (b) Date prior discipline effective February 14, 2008
 - (c) Rules of Professional Conduct/ State Bar Act violations: Rule 4-100(A) and section 6106.
 - (d) Degree of prior discipline Private Reproof.
 - (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. See Page 9 for explanation re: Candor/Cooperation.
- (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. See Page 9 for explanation re: Remorse.
- (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) **Private reproof (check applicable conditions, if any, below)**
- (a) Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).
- (b) Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).

or

- (2) **Public reproof (Check applicable conditions, if any, below)**

E. Conditions Attached to Reproof:

- (1) Respondent must comply with the conditions attached to the reproof for a period of One (1) year.
- (2) During the condition period attached to the reproof, 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 condition period attached to the reproof. 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 the reproof during the preceding calendar quarter. Respondent

must also state in each report 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 (thirty) days, that report must be submitted on the next following 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 condition period and no later than the last day of the condition period.

- (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 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 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 conditions attached to the reprobation.
- (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: See Page 11.
- (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) 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 of the effective date of the reprobation. See Page 11.
- No MPRE recommended. Reason: See other conditions negotiated by the parties.
- (11) The following conditions are attached hereto and incorporated:
- | | |
|---|--|
| <input type="checkbox"/> Substance Abuse Conditions | <input checked="" type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

In the Matter of
Kathleen Gayle Relyea a/k/a
Kathleen Gayle Alvarado

Case number(s):
09-H-11866

A Member of the State Bar

Law Office Management Conditions

- a. Within days/ months/ years of the effective date of the discipline herein, Respondent must develop a law office management/organization plan, which must be approved by the Office of Probation. This plan must include procedures to (1) send periodic reports to clients; (2) document telephone messages received and sent; (3) maintain files; (4) meet deadlines; (5) withdraw as attorney, whether of record or not, when clients cannot be contacted or located; (6) train and supervise support personnel; and (7) address any subject area or deficiency that caused or contributed to Respondent's misconduct in the current proceeding.
- b. Within days/**Six (6)** months/ years of the effective date of the discipline herein, Respondent must submit to the Office of Probation satisfactory evidence of completion of no less than **Six (6)** hours of Minimum Continuing Legal Education (MCLE) approved courses in law office management, attorney client relations and/or general legal ethics. ~~This requirement is separate from any MCLE requirement and Respondent will not receive MCLE credit for attending these courses (Rule 8.201, Rules of Procedure of the State Bar.)~~
- c. Within 30 days of the effective date of the discipline, Respondent must join the Law Practice Management and Technology Section of the State Bar of California and pay the dues and costs of enrollment for year(s). Respondent must furnish satisfactory evidence of membership in the section to the Office of Probation of the State Bar of California in the first report required.

Office of Probation with proof of attendance at the March 27, 2009 Client Trust Accounting School and passage of the test given at the end of that session.

7. A further condition of the reprobation required that Respondent take and pass the Multistate Professional Responsibility Examination ("MPRE") by no later than February 14, 2009, and supply the State Bar's Office of Probation with proof of passage of the MPRE by no later than February 14, 2009.

8. Respondent took the MPRE on November 8, 2008; however, she did not pass the exam. Respondent took the MPRE on August 7, 2009; however, she did not pass the exam.

9. To date, Respondent has not taken and passed the MPRE. At no time has Respondent supplied proof of passage of the MPRE to the State Bar's Office of Probation.

10. Respondent is registered to take the MPRE on August 6, 2010.

Conclusions of Law

By failing to comply with the conditions attached to a reprobation, Respondent willfully violated rule 1-110 of the Rules of Professional Conduct.

PENDING PROCEEDINGS.

The disclosure date referred to on page 2, paragraph A(7), was July 29, 2010.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed her that as of July 29, 2010, the prosecution costs in this matter are \$\$1,636. The costs are to be paid in equal amounts prior to February 1 for the following three billing cycles following the effective date of the discipline herein.

If Respondent fails to pay any installment within the time provided herein or as may be modified by the State Bar Court pursuant to section 6086.10, subdivision (c), the remaining balance of the costs is due and payable immediately and enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment unless relief has been granted under the Rules of Procedure of the State Bar of California. (Rules Proc. of State Bar, rule 286.)

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.

AGGRAVATING CIRCUMSTANCES.

1. Prior Discipline

Respondent has been disciplined on one prior occasion. A prior record of discipline is an aggravating circumstance. (Std. 1.2(b)(i).) On or about January 24, 2008, the State Bar Court filed a Decision in *In the Matter of Kathleen Gayle Relyea*, Case Nos. 01-O-03419, ordering Respondent privately reprovved and that Respondent comply with certain conditions attached to the reproval for a period of one year.

MITIGATING CIRCUMSTANCES.

1. Candor and Cooperation

Respondent is entitled to mitigation for entering into this stipulation. (Std. 1.2(e)(v).)

2. Acknowledgment of Misconduct

Respondent acknowledges that she has a duty to comply with State Bar Court orders and is remorseful for her failure to do so. This is a mitigating factor. (Std 1.2(e)(vii).)

AUTHORITIES SUPPORTING DISCIPLINE.

1. Standards

Standard 1.3 of the Standards for Attorney Sanctions for Professional Conduct (“Standard(s)”) provides that 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.

Standard 1.7(a) provides that if an attorney has a prior record of discipline, the discipline in the present proceeding shall be greater than that imposed in the prior proceeding except in certain circumstances not present here.

Standard 2.9 provides that an attorney's wilful violation of his duty under rule 1-110 of the Rules of Professional Conduct to comply with the conditions attached to a reproof imposed on the attorney by the State Bar Court shall result in suspension.

2. Case Law

In *In the Matter of Posthuma* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 813, 818 the attorney had been privately reproved in an earlier criminal conviction referral proceeding following his conviction of misdemeanor sexual battery. As a condition of his reproof, the attorney was required to take and pass the CPRE. (*Id.* at p. 816.) The attorney failed to comply with this condition before the expiration of the extended deadline. (*Id.* at p. 817.) The Review Department found that there were no mitigating circumstances and one aggravating circumstance: the attorney's prior record of discipline. (*Id.* at pp. 820-821.)

The Review Department held that the appropriate level of discipline was a public reproof. (*Id.* at p. 822.) The Review Department did not apply Standard 2.9, because the Court determined that suspension would have been excessive in light of the attorney's participation in the proceeding acknowledgment, albeit begrudgingly, of his obligation to comply with State Bar Court orders. (*Id.*)

Here, the purposes of attorney discipline are also achieved by way of a public reproof, which is greater level of discipline imposed against Respondent in the prior proceeding. Respondent, like the attorney in *Posthuma* has participated in these proceedings. Moreover, Respondent has agreed to enter into this stipulation, and has expressed remorse for her failure to comply with State Bar Court orders.

OTHER CONDITIONS NEGOTIATED BY THE PARTIES.

Respondent is scheduled to take the MPRE on August 6, 2010. If Respondent provides proof of passage of the MPRE administered on August 6, 2010 to the Office of Probation within ninety (90) days of the effective date of the discipline herein, she is not required to again take and pass the MPRE.

However, if Respondent does not provide to the Office of Probation proof of passage of the MPRE administered on August 6, 2010 within ninety (90) days of the effective date of the discipline herein, she must take and pass the MPRE within one year of the effective date of the discipline in this proceeding and provide proof of passage of the MPRE to the Office of Probation within said year.

STATE BAR ETHICS SCHOOL EXCLUSION.

It is not recommended that Respondent attend State Bar Ethics School since she attended Ethics School on December 4, 2008, in connection with Case Number 01-O-03419-RAH, et. al.

(Do not write above this line.)

In the Matter of Kathleen Gayle Relyea a/k/a Kathleen Gayle Alvarado	Case number(s): 09-H-11866
--	-------------------------------

SIGNATURE OF THE PARTIES

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

8/9/10
Date

Kathleen S Relyea
Respondent's Signature

Kathleen S Alvarado
Print Name

Kathleen Gayle Relyea a/k/a Kathleen
Gayle Alvarado
Print Name

8/12/10
Date

Eli Morgenstern
Respondent's Counsel Signature

Eli Morgenstern
Deputy Trial Counsel's Signature

Eli Morgenstern
Print Name

(Do not write above this line.)

In the Matter Of Kathleen Gayle Relyea a/k/a Kathleen Gayle Alvarado	Case Number(s): 09-H-11866
--	-------------------------------

ORDER

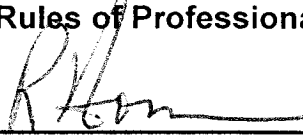
Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproval, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- The stipulated facts and disposition are APPROVED AND THE REPROVAL IMPOSED.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- 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. (See rule 125(b), Rules of Procedure.) **Otherwise the stipulation shall be effective 15 days after service of this order.**

Failure to comply with any conditions attached to this reproval may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.

8-17-10
Date


Judge of the State Bar Court

RICHARD A. HONN

CERTIFICATE OF SERVICE

[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on August 17, 2010, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

in a sealed envelope for collection and mailing on that date as follows:

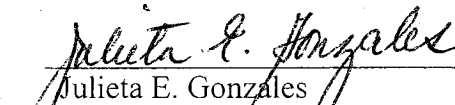
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

KATHLEEN G ALVARADO
ATTORNEY AT LAW
SAN BERNARDINO DISTRICT ATTORNEYS OFFICE
8303 HAVEN AVE 1ST FL
RANCHO CUCAMONGA, CA 91730

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

Eli D. Morgenstern, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 17, 2010.



Julieta E. Gonzales
Case Administrator
State Bar Court