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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
<p>Counsel For The State Bar</p> <p>PAUL T. O'BRIEN 1149 S. HILL STREET LOS ANGELES, CA 90015-2299 (213) 765-1378</p> <p>Bar # 171252</p>	<p>Case Number(s):</p> <p>09-O-11594; 09-O-11951; 09-O-14461; 09-O-15562; 09-O-16259; 09-O-16858; 10-O-03447 10-O-09288</p>	<p>For Court use only</p> <div style="text-align: center; margin-top: 20px;"> <p>FILED</p> <p>FEB 03 2011</p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> </div>
<p>In Pro Per Respondent</p> <p>CATHERINE MOSCARELLO MOSCARELLO & ADAMS, LLP 8 CORPORATE PARK, SUITE 300 IRVINE, CA 92606 (714) 505-2121</p> <p>Bar # 216384</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:</p> <p>CATHERINE ANN MOSCARELLO</p> <p>Bar # 216834</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 December 4, 2001.
- (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 20 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."

(Effective January 1, 2011)

Actual Suspension



- (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: three billing cycles following the effective date of the Supreme Court 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.
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

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- (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. Respondent suffered from a non-specific seizure disorder, which is now being medically treated, as well as bi-lateral pneumonia, and multiple surgeries during the period of her misconduct.
- (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 addressed certain systemic problems in her law practice by closing her professional law corporation, The Moscarello Law Group, and forming a partnership with another attorney, to ensure the availability of counsel for all clients employing her firm's services, as Respondent now spends most of her time outside of California. Respondent also ceased her main avenue of advertising in order to reduce the number of clients her firm would take on at a given time.

D. Discipline:

- (1) **Stayed Suspension:**
- (a) Respondent must be suspended from the practice of law for a period of two years.
- 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 three 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 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:

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:
 - 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 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:**

Attachment language (if any):

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: CATHERINE ANN MOSCARELLO

CASE NUMBER(S): ET AL. 09-O-11594-RAP, et al.

FACTS AND CONCLUSIONS OF LAW.

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

The Alvarez Matter (Case No. 09-O-11594)

1. On or about August 11, 2008, Andrew J. Alvarez ("Alvarez") employed Respondent to file a Chapter 7 bankruptcy petition on his behalf. Alvarez paid Respondent a flat fee of \$2299 to file the petition. The fee included the cost of the filing fee.

2. Respondent failed to prepare or file a bankruptcy petition on behalf of Alvarez.

3. In or about May 2009, Alvarez requested that Respondent refund the fees he paid Respondent. Respondent refunded \$1000 to Alvarez.

4. Respondent did not perform services of value to Alvarez or provide a refund of the remaining \$1299 in fees paid by Alvarez.

Conclusions of Law

By failing to complete the services for which Respondent was employed in the Alvarez matter, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in willful violation of rule 3-110(A), Rules of Professional Conduct.

By not fully refunding the fees paid by Alvarez, Respondent failed to refund promptly a fee paid in advance that has not been earned, in willful violation of rule 3-700(D)(2), Rules of Professional Conduct.

The Buckley Matter (Case No. 09-O-11951)

1. In or about January 2007, Kristin E. Buckley ("Buckley") employed Respondent to file a Chapter 7 bankruptcy petition on Buckley's behalf. Buckley paid Respondent a \$750 fee. The remainder of the fee, \$1049, was paid on Buckley's behalf by the Mental Health Association. The total fee paid included a \$299 filing fee.

2. Respondent did not file a bankruptcy petition on Buckley's behalf.

3. On or about November 26, 2007, Buckley terminated Respondent as her attorney and requested a refund of the fees paid Respondent. Respondent provided a refund of the filing costs in the amount of \$299 to Buckley. Respondent failed to refund the remainder of the fees paid by Buckley and the Mental Health Association to either Buckley or the Mental Health Association.

4. On or about November 26, 2007, Respondent accepted payment in the amount of \$1049 from Mental Health Association on behalf of Buckley for Respondent's attorney's fees. Respondent did not obtain Buckley's written consent prior to accepting such payment.

Conclusions of Law

By failing to complete the services for which Respondent was employed, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in willful violation of rule 3-110((A), Rules of Professional Conduct.

By not fully refunding the advanced fees paid by Buckley and the Mental Health Association, Respondent failed to refund promptly a fee paid in advance that had not been earned, in willful violation of rule 3-700(D)(2), Rules of Professional Conduct.

By failing to obtain Buckley's written consent to payment of Respondent's attorney's fees by Mental Health Association, Respondent accepted compensation for the representation of a client without obtaining the client's informed written consent, in willful violation of rule 3-310(F), Rules of Professional Conduct.

The Pesch Matter (Case No. 09-O-14461)

1. On or about August 18, 2008, Deana L. Pesch ("Pesch") employed Respondent to file a bankruptcy petition on Pesch's behalf for a flat fee of \$1000. On August 18, 2008 Pesch paid Respondent \$500 towards Respondent's fee for filing the bankruptcy petition. In November 2008, Pesch paid Respondent an additional \$500 toward Respondent's fee.

2. Respondent subsequently failed to prepare or file a Bankruptcy Petition on Pesch's behalf.

3. Between November 2008 and June 2009, Pesch contacted Respondent several times by telephone and left numerous messages inquiring about the status of her case. Pesch also sent several text and email messages to Respondent in an attempt to find out the status of her case. Respondent received and did not respond to the numerous inquiries.

4. Respondent did not refund the \$1000 paid by Pesch.

5. On September 28, 2009, a State Bar Investigator wrote Respondent a letter requesting that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Pesch matter. The response deadline was October 12, 2009. Respondent received the letter but failed to respond.

6. On October 20, 2009, a State Bar Investigator wrote Respondent a letter requesting a response to the letter sent on September 28, 2009. A copy of the September 28, 2009 letter was enclosed with the October 20, 2009 letter. The response deadline was November 3, 2009. Respondent received the letter and enclosure but failed to respond.

Conclusions of Law

By failing to file the bankruptcy petition on behalf of Pesch, failing to refund the fee paid by Pesch and not advising Pesch regarding the status of her matter, Respondent failed, upon termination of her employment to take reasonable steps to avoid foreseeable prejudice to her client, in willful violation of rule 3-700(A)(2), Rules of Professional Conduct.

By not providing a written response to the allegations in the Pesch matter or otherwise cooperating in the investigation of the matter, Respondent failed to cooperate in a State Bar investigation, in willful violation of Business and Professions Code section 6068(i).

(Effective January 1, 2011)

The Frontella Matter (Case No. 09-O-15562)

1. On or about October 12, 2008, Tracy Frontella ("Frontella") employed Respondent to file a personal and a corporate bankruptcy on her behalf. Frontella paid Respondent a flat fee of \$5098.00 to file both bankruptcies. This fee included the cost of filing fees.

2. Respondent prepared and filed the corporate bankruptcy petition on Frontella's behalf. However, Respondent subsequently failed to appear on behalf of Frontella at the hearing on the bankruptcy petition. Frontella represented herself at the hearing.

3. Respondent prepared and filed the personal bankruptcy petition on Frontella's behalf. However, Respondent failed to prepare paperwork necessary to complete and discharge the bankruptcy. Frontella ultimately filled out and filed paperwork required to complete the bankruptcy without Respondent's assistance.

4. On October 7, 2009, Frontella requested that Respondent refund the fees she paid Respondent. Respondent failed to provide a refund to Frontella. Between November 11, 2008 and January 13, 2009, Frontella placed approximately seventeen (17) telephone calls to Respondent's office. Each call requested a status update on her matter.

5. Respondent did not return any of the calls or otherwise contact Frontella with a status update on her matter.

6. On September 28, 2009, a State Bar Investigator wrote Respondent a letter requesting that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Frontella matter. The response deadline was October 12, 2009. Respondent received the letter but failed to respond.

7. On October 16, 2009, a State Bar Investigator wrote Respondent a letter requesting a response to the letter sent on September 28, 2009. A copy of the September 28, 2009 letter was enclosed with the October 16, 2009 letter. The response deadline was October 30, 2009. Respondent received the letter and enclosure but failed to respond.

Conclusions of Law

By failing to complete the services for which Respondent was employed in the Frontella matter, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in willful violation of rule 3-110(A), Rules of Professional Conduct.

By failing to refund unearned fees to Frontella, Respondent failed to refund promptly a fee paid in advance that has not been earned, in willful violation of rule 3-700(D)(2), Rules of Professional Conduct.

By not responding to Frontella telephone calls and advising her as to the status of her matter over a three month period, Respondent willfully failed to respond promptly to reasonable status inquiries by a client, in willful violation of Business and Professions Code section 6068(m).

By not providing a written response to the allegations in the Frontella matter or otherwise cooperating in the investigation of the matter, Respondent failed to cooperate in a State Bar investigation, in willful violation of Business and Professions Code section 6068(i).

The Delperdang Matter (Case No. 09-O-16259)

1. In or about June 2009, Jeanne Delperdang (“Delperdang”) contacted Respondent by telephone to discuss her options with respect to filing for bankruptcy. Respondent instructed Delperdang to deposit \$1,250 into Respondent’s bank account prior to a consultation and to forward Respondent certain documents which would be required for Respondent to complete the bankruptcy. Respondent indicated that if Respondent were to file a bankruptcy for Delperdang the total cost would be a flat fee of \$2500. Further, Respondent scheduled an appointment, to be conducted by telephone, for Sunday, June 14, 2009 in which Delperdang and Respondent would further discuss Delperdang’s options with respect to the bankruptcy.

2. On June 14, 2009, Respondent rescheduled the telephone appointment with Delperdang for June 16, 2009.

3. On June 15, 2009, Delperdang deposited \$1250 into Respondent’s Bank of America account. On June 16, 2009, Respondent failed to keep her appointment with Delperdang. Between June 16, 2009 and July 30, 2009, Delperdang repeatedly called and emailed Respondent in an attempt to reschedule the

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appointment. Respondent replied to some of Delperdang's emails and cited health issues as the reason for the delay in rescheduling Delperdang's appointment.

4. On July 11, 2009, Respondent rescheduled Delperdang's appointment for July 16, 2009. On July 16, 2009, Respondent failed to keep the appointment.

5. On July 17, 2009, Delperdang requested a refund of her fees. Respondent replied that any refund would be minimal because of the amount of time Respondent had already spent on Delperdang's case. At that juncture, Respondent and Delperdang had still not met for the appointment which was originally to be held on June 14, 2009, Respondent has not advised Delperdang regarding her options with respect to the bankruptcy, and Delperdang had not sent Respondent a complete set of the documents Respondent requested in order to file the bankruptcy.

6. Between July 24, 2009, and July 30, 2009, Delperdang emailed Respondent three times in an attempt to reschedule the appointment and discuss her bankruptcy case. Respondent received but did not reply to these emails.

7. On August 14, 2009, Delperdang again requested that Respondent provide her with a refund. Respondent replied to Delperdang's email that she would send Delperdang a partial refund and an accounting within 30 days. Respondent sent neither an accounting nor a refund to Delperdang. To date, Respondent has not filed any bankruptcy paperwork on Delperdang's behalf.

8. On November 4, 2009, a State Bar Investigator wrote Respondent a letter requesting that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Delperdang matter. The response deadline was November 18, 2009. Respondent received the letter but failed to respond.

9. On March 26, 2009, a State Bar Investigator wrote Respondent a letter requesting a response to the letter sent on November 4, 2009. A copy of the November 4, 2009 letter was enclosed with the March 26, 2009 letter. The response deadline was April 9, 2010. Respondent received the letter and enclosure but failed to respond.

Conclusions of Law

By not meeting with Delperdang, obtaining the information necessary to complete the bankruptcy petition or communicating with Delperdang, Respondent failed, upon termination of her employment to take reasonable steps to avoid foreseeable prejudice to her client, in willful violation of rule 3-700(A)(2), Rules of Professional Conduct.

By not providing a written response to the allegations in the Delperdang matter or otherwise cooperating in the investigation of the matter, Respondent failed to cooperate in a State Bar investigation, in willful violation of Business and Professions Code section 6068(i).

The Keyes Matter (Case No. 09-O-16858)

1. In or about March 13, 2009, Thomas D. Keyes ("Keyes") employed Respondent to file a Chapter 7 bankruptcy petition on his behalf. Keyes paid Respondent a flat fee of \$2800 to file the petition. The fee included the cost of the filing fee.

2. Respondent failed to file a bankruptcy petition on Keyes' behalf.

3. On or about September 14, 2009, Keyes requested that Respondent refund the fees he paid Respondent. Respondent agreed to provide Keyes with a refund. To date, Respondent failed to provide a refund to Keyes.

4. On or about September 14, 2009, Keyes sent Respondent an email and requested that she return all paperwork he provided to the Respondent in connection with his bankruptcy filing. Respondent agreed to return the documents to Keyes. To date, Respondent has not returned the requested paperwork to Keyes.

5. On October 26, 2009, a State Bar Investigator wrote Respondent a letter requesting that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Keyes matter. The response deadline was November 9, 2009. Respondent received the letter but failed to respond.

6. On November 13, 2009, a State Bar Investigator wrote Respondent a letter requesting a response to the letter sent on October 26, 2009. A copy of the October 26, 2009 letter was enclosed with

the November 13, 2009 letter. The response deadline was November 27, 2009. Respondent received the letter and enclosure but failed to respond.

Conclusions of Law

By failing to complete the services for which Respondent was employed, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in willful violation of rule 3-110(A).

By not fully refunding the fees paid by Keyes, Respondent failed to refund promptly a fee paid in advance that has not been earned, in willful violation of rule 3-700(D)(2).

By not providing her client with his documents, Respondent failed to release all client papers and property promptly, at the client's request, upon termination of employment, in willful violation of rule 3-700(D)(1), Rules of Professional Conduct.

By not providing a written response to the allegations in the Keyes matter or otherwise cooperating in the investigation of the matter, Respondent failed to cooperate in a State Bar investigation, in willful violation of Business and Professions Code section 6068(i).

Case No. 10-O-09288 (The Sellmeyer Matter)

1. On or about May 1, 2008, Pam and Craig Sellmeyer employed Respondent to represent them in a bankruptcy matter. The Sellmeyers paid Respondent a total of \$1,900 for her services. The Sellmeyers completed their pre-bankruptcy counseling, provided Respondent with all documents she requested from them, and met twice with Respondent.

2. Over the next 15 months, Respondent did not file a bankruptcy petition on the Sellmeyer's behalf, despite their frequent calls, faxes and phone messages. The Sellmeyers continued to urge Respondent to obtain for them the relief they needed. In August 2009, Respondent emailed a response to one of the Sellmeyer's inquiries, promising to file the bankruptcy petition by the end of the week. She did not, however, file anything on their behalf with the US Bankruptcy Court.

3. On December 30, 2009, the Sellmeyers sent Respondent yet another email, asking for the status of their bankruptcy case. Respondent replied on January 10, 2010, that she had been hospitalized.

The Sellmeyers waited until April 2010 before terminating Respondent, as she had still not filed a
(Effective January 1, 2011)

petition on their behalf. On April 30, 2010, their new counsel, Patricia Ashcroft, filed a bankruptcy petition with the US Bankruptcy Court. When the Sellmeyers employed her, Ashcroft called Respondent to inquire what she had accomplished on their behalf and to demand a refund. Respondent told Ashcroft that she would refund the entire fee to the Sellmeyers. Thereafter, Respondent did not make a refund to her former clients.

4. The Sellmeyers complained to the State Bar about Respondent's inaction in August 2010. On November 12, 2010 and December 3, 2010, a State Bar Investigator sent letters to Respondent, which Respondent received, requesting a response to the allegations made by the Sellmeyers. Respondent did not respond to either letter.

Conclusions of Law

By not filing a bankruptcy petition on behalf of the Sellmeyers, despite knowing of their desperate financial condition, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in willful violation of rule 3-110(A).

By not refunding any part of the \$1,900 advanced by the Sellmeyers, upon the termination of her employment, Respondent failed to refund promptly a fee paid in advance that had not been earned, in willful violation of rule 3-700(D)(2), Rules of Professional Conduct.

By not providing a written response to the allegations in the Sellmeyer matter or otherwise cooperating in the investigation of the matter, Respondent failed to cooperate in a State Bar investigation, in willful violation of Business and Professions Code section 6068(i).

Case No. 10-O-03447 (The Hay Matter)

1. On May 28, 2009, Laurie and John Hay employed Respondent to represent them in a bankruptcy matter. The Hays paid Respondent \$2,799 for her services and for certain costs.

2. On December 6, 2009, the Hays's bankruptcy petition was dismissed due to Respondent's failures to file certain schedules, a statistical summary, and a statement of financial affairs. Shortly thereafter, Respondent informed the Hays that she had been hospitalized, but assured them that she would re-file their bankruptcy petition in order to get them the relief they sought. On January 18, 2010, Respondent informed her clients that she would refund \$500 of the fees they had advanced

3. The Hays terminated Respondent's employment on January 27, 2010. At no time, thereafter, did Respondent refund any portion of the \$2,799 they had paid as advanced fees and costs.

4. The Hays complained to the State Bar about Respondent's conduct during her representation of them on or about February 10, 2010. On April 12, 2010, and April 26, 2010, a State Bar investigator sent letters to Respondent, which Respondent received, requesting a response to the allegations made by Mr. and Mrs. Hays. Respondent did not respond to either letter.

Conclusions of Law

By not filing essential documents in pursuing the Hays' bankruptcy, thereby leading to its dismissal, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in willful violation of rule 3-110(A).

By not refunding any part of the \$2,799 advanced by the Hays, upon the termination of her employment, Respondent failed to refund promptly a fee paid in advance that had not been earned, in willful violation of rule 3-700(D)(2), Rules of Professional Conduct.

By not responding to the State Bar Investigators letters of April 12 and April 26, 2010, Respondent failed to cooperate in a State Bar investigation, in willful violation of Business and Professions Code section 6068(i).

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was January 20, 2011.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of January 20, 2011, the prosecution costs in this matter are \$9,246. 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.

Standard 1.3—the primary purposes of disciplinary proceedings conducted by the State Bar of California and of sanctions imposed upon a finding or acknowledgement of a member's professional misconduct 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 profession.

STATE BAR ETHICS SCHOOL EXCLUSION

Respondent resides outside California and is unable to attend State Bar Ethics School. As an alternative to State Bar Ethics School, the parties agree that respondent will complete the following courses: six participatory units of Continuing Legal Education in the area of Ethics. Proof of satisfactory completion of the units shall be reportable to the Probation Unit within one year of the effective date of this order. If Respondent chooses to attend State Bar Ethics School in Los Angeles or San Francisco, she may satisfy this condition with proof of completion of the course.

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In the Matter of: Catherine Ann Moscarello	Case Number(s): 09-O-11594-RAP, et al.
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Financial Conditions

a. Restitution

- Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From
Kristin Buckley	\$1,500	11/26/2007
Andrew J. Alvarez	\$1,299	05/01/2009
Dana Pesch	\$1,000	06/01/2009
Jeanne Delperdang	\$1,250	08/14/2009

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than 180 days following the effective date of the disciplinary order.

b. Installment Restitution Payments

- Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency

- 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.

c. Client Funds Certificate

1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

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Financial Conditions

a. Restitution

- Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From
Thomas Keyes	\$2,800	09/14/2009
Tracy Frontella	\$1,848	10/07/2009
Pam and Craig Sellmeyer	\$1,900	05/08/2008
Laurie and John Hay	\$500	01/18/2010

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than 180 days following the effective date of the disciplinary order.

b. Installment Restitution Payments

- Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency

- 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.

c. Client Funds Certificate

1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- a. Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

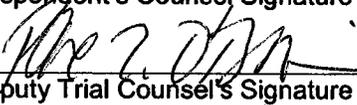
(Do not write above this line.)

In the Matter of: CATHERINE ANN MOSCARELLO	Case number(s): 09-O-11594-RAP, et al.
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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>1/24/11</u> Date	<u></u> Respondent's Signature	<u>CATHERINE A 1/24/11 MOSCARELLO</u> Print Name
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<u>1/24/11</u> Date	<u></u> Respondent's Counsel Signature	<u>Paul T. O'Brien</u> Print Name
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(Do not write above this line.)

In the Matter of: CATHERINE ANN MOSCARELLO	Case Number(s): 09-O-11594-RAP, et al.
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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.

*PAGE 1 - CAPTION - DELETE RESPONDENT'S BAR NUMBER 216834.
Add BAR NO. 216384*

*PAGE 5 - ITEM E.(S) UNCHECK BOX.
CHECK BOX - NO ETHICAL SCHOOL RECOMMENDED.
INSERT REVIEW! SEE PAGE 17.*

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.)**

2/11/11

Date



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 February 3, 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:

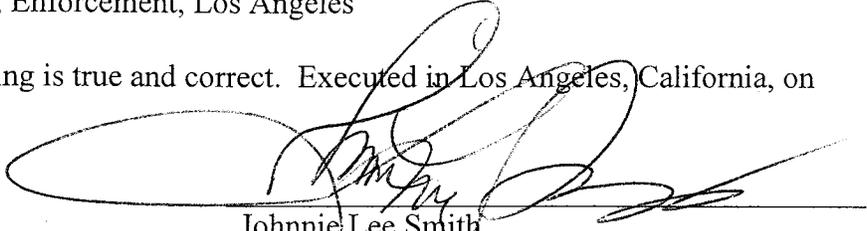
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

CATHERINE A. MOSCARELLO
MOSCARELLO & ADAMS LLP
8 CORPORATE PARK STE 300
IRVINE, CA 92606

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

Paul T. O'Brien, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on February 3, 2011.



Johnnie Lee Smith
Case Administrator
State Bar Court