

## State Bar Court of California **Hearing Department** Los Angeles **ACTUAL SUSPENSION** For Court use only Counsel For The State Bar Case Number(s): 09-O-12631 Erin McKeown Joyce 09-O-17863 Deputy Trial Counsel State Bar of California 1149 South Hill Street PUBLIC MATTER Los Angeles, CA 90015-2299 JUL 1 1 2011 Telephone: (213) 765-1356 Facsimile: (213) 765-1319 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO Bar # 149946 In Pro Per Respondent Paul Jean Virgo P. O. Box 67682 Los Angeles, CA 90067-0682 Telephone: (310) 642-6900 Submitted to: Assigned Judge Facsinmile: (310) 785-9081 STIPULATION RE FACTS, CONCLUSIONS OF LAW AND **DISPOSITION AND ORDER APPROVING** Bar # 67900 In the Matter of: **ACTUAL SUSPENSION** AMY MAITRAYEE GHOSH ☐ PREVIOUS STIPULATION REJECTED Bar # 201701 018 040 942 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 June 9, 1999.
- (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.

| (Do no   | <u>ot write</u>   | above this line.)  |  |  |  |  |
|--|---|--|--|--|--|--|
| (3)  | this  | 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 13 pages, not including the order. |  |  |  |  |
| (4)  |   | statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included nder "Facts."  |  |  |  |  |
| (5)  |   | Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of aw".  |  |  |  |  |
| (6)  | The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority." |  |  |  |  |  |
| (7)  |   | o more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any ending investigation/proceeding not resolved by this stipulation, except for criminal investigations.   |  |  |  |  |
| (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code § 6140.7. (Check one option only): |   |  |  |  |  |  |
|  |   | relief is obtained per rule 5.130, Rules of Procedure.   |  |  |  |  |
| P  | rofe  | avating Circumstances [for definition, see Standards for Attorney Sanctions for essional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances equired.   |  |  |  |  |
| (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)  |   | <b>Dishonesty:</b> 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)  |   | ☐ <b>Trust Violation:</b> 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.   |  |  |  |  |

| (Do not write above this line.)  |        |   |  |  |  |
|--|--------|---|--|--|--|
| (4)  |        | Harm: Respondent's misconduct harmed significantly a client, the public or the administration of justice.   |  |  |  |
| (5)  |        | <b>Indifference:</b> Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.   |  |  |  |
| (6)  |        | <b>Lack of Cooperation:</b> 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)  |        | <b>Multiple/Pattern of Misconduct:</b> Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.   |  |  |  |
| (8)  |        | <b>No aggravating circumstances</b> are involved. There are no facts surrounding Respondent's misconduct which provide aggravating weight to the trust acount violations in which Respondent engaged.   |  |  |  |
| Addi   | itiona | al aggravating circumstances:   |  |  |  |
| C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required. |        |   |  |  |  |
| (1)  |        | <b>No Prior Discipline:</b> 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)  |        | <b>Candor/Cooperation:</b> Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings. Throughout this proceeding, Respondent cooperated fully with the State Bar, answered the questions that were posed by the State Bar, and entered into this comprehensive stipulation acknowledging her misconduct and settling this case prefiling.   |  |  |  |
| (4)  |        | <b>Remorse:</b> 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)  |        | <b>Restitution:</b> Respondent paid \$ on in restitution to without the threat or force of disciplinary, civil or criminal proceedings.   |  |  |  |
| (6)  |        | <b>Delay:</b> 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. During the time the misconduct occurred, Respondent was suffering from the effects of diabetes, which was not being treated with the proper |  |  |  |

| (Do no | t write       | above              | this lin   | e.)  |  |  |  |  |
|--------|---------------|--------------------|--|--|--|--|--|--|
|        |               | for a              | ı pote   | ons. Because of the physical symtoms she was experiencing, she was undergoing testing ential brain tumor at the time she was representing the Seghals. Respondent is now proper treatment for her diabetes, which is now under control.  |  |  |  |  |
| (9)    |               | whic               | 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)   |               |                    | <b>Family Problems:</b> 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)   |               |                    |  | racter: Respondent's good character is attested to by a wide range of references in the legal al communities who are aware of the full extent of his/her misconduct.   |  |  |  |  |
| (12)   |               |                    |  | tion: Considerable time has passed since the acts of professional misconduct occurred y convincing proof of subsequent rehabilitation.   |  |  |  |  |
| (13)   |               | No n               | nitiga   | ting circumstances are involved.   |  |  |  |  |
| Addi   | tiona         | al miti            | igatin   | g circumstances:   |  |  |  |  |
| prac   |               | -                  | ndeni  | was admitted in 1999, and had no record of discipline for the first eight years of her   |  |  |  |  |
| has r  | ect c<br>eval | of this<br>mpec    | stipul<br>d her  | problems Respondent experienced in the Gonzalez and Seghal matters (which are the ation) stemmed from Respondent's failure to employ sufficient trained office staff. She practice subsequent to her representation of these clients, engaged trained staff, and I training as to the requirements for maintaining her client trust account. |  |  |  |  |
| D. C   | )isci         | pline              | e:   |  |  |  |  |  |
| (1)    | $\boxtimes$   | Stayed Suspension: |  |  |  |  |  |  |
|        | (a)           | $\boxtimes$        | Resp   | pondent must be suspended from the practice of law for a period of one (1) year.   |  |  |  |  |
|        |               | i.                 |  | and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.   |  |  |  |  |
|        |               | ii.                |  | and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.  |  |  |  |  |
|        |               | iii.               |  | and until Respondent does the following:   |  |  |  |  |
|        | (b)           | $\boxtimes$        | The  | above-referenced suspension is stayed.   |  |  |  |  |
| (2)    | $\boxtimes$   | Prot               | oation   |  |  |  |  |  |
|        | Res<br>date   | spond<br>e of th   | ent m<br>ne Sur  | ust be placed on probation for a period of one (1) year, which will commence upon the effective preme Court order in this matter. (See rule 9.18, California Rules of Court)   |  |  |  |  |
| (3)    | $\boxtimes$   | Actu               | ıal Su   | spension:  |  |  |  |  |
|        |               |                    |  |  |  |  |  |  |

| (Do not write above this line.) |             |   |   |  |  |
|---------------------------------|-------------|---|---|--|--|
|                                 | (a)         | $\boxtimes$   | Respondent must be actually suspended from the practice of law in the State of California for a period of sixty (60) days.  |  |  |
|                                 |             | i.  | and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct  |  |  |
|                                 |             | ii.   | and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.   |  |  |
|                                 |             | iii.  | and until Respondent does the following:  |  |  |
| E. A                            | \ddi1       | tiona   | l Conditions of Probation:  |  |  |
| (1)                             |             | he/sl   | spondent is actually suspended for two years or more, he/she must remain actually suspended until ne proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in the tral law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.  |  |  |
| (2)                             | $\boxtimes$ |   | ng the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of essional 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):                            |             | and<br>cond<br>prob   | 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   |  |  |
| (5)                             |             | Resp<br>July<br>when<br>cond<br>are a<br>curre  | promptly meet with the probation deputy as directed and upon request.  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 ac   | ldition to all quarterly reports, a final report, containing the same information, is due no earlier than ty (20) days before the last day of the period of probation and no later than the last day of probation.  |  |  |
| (6)                             |             | cond<br>During<br>in ac   | condent must be assigned a probation monitor. Respondent must promptly review the terms and litions of probation with the probation monitor to establish a manner and schedule of compliance. In the period of probation, Respondent must furnish to the monitor such reports as may be requested, idition to the quarterly reports required to be submitted to the Office of Probation. Respondent must be perate fully with the probation monitor.  |  |  |
| (7)                             |             | inqui<br>direc  | ect to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any iries of the Office of Probation and any probation monitor assigned under these conditions which are sted to Respondent personally or in writing relating to whether Respondent is complying or has plied with the probation conditions.   |  |  |
|                                 |             |   |   |  |  |

| (Do no | (Do not write above this line.)  |  |   |                          |   |
|--------|--|--|---|--------------------------|---|
| (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  | ղ:                       | •   |
| (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  | $\boxtimes$              | Law Office Management Conditions  |
|        |  |  | Medical Conditions  | $\boxtimes$              | Financial Conditions  |
| F. O   | ther   | Con  | ditions Negotiated by the Parties   | <b>s</b> :               |   |
| (1)    |  | the Mone<br>one<br>furth   | Multistate Professional Responsibility Exa<br>ference of Bar Examiners, to the Office of<br>year, whichever period is longer. Failure   | minati<br>Proba<br>to pa | ion: Respondent must provide proof of passage of on ("MPRE"), administered by the National ation during the period of actual suspension or within ss the MPRE results in actual suspension without b), California Rules of Court, and rule 5.162(A) & |
|        |  |  | lo MPRE recommended. Reason:  | •                        |   |
| (2)    |  | Calif  | 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)    |  | days<br>perfe  | 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)    |  | perio  | dit for Interim Suspension [conviction od of his/her interim suspension toward the mencement of interim suspension:   | referra<br>le stipu      | al cases only]: Respondent will be credited for the ulated period of actual suspension. Date of   |
| (5)    | $\boxtimes$  | ]  | Other Conditions:   |                          |   |
|        |  |  |   |                          |   |
| The    | The Attachment to the Stipulation re Facts, Conclusions of Law and Disposition comprises pages 10 to 12. |  |   |                          |   |
|        |  |  |   |                          |   |
|        |  |  |   |                          |   |
|        |  |  |   |                          |   |
|        |  |  |   |                          |   |

| n the Matt         |  |  |  |  |
|--------------------|--|--|--|--|
| AMY MA             | er of:<br>AITRAYEE GHOSH   | 09-O-126   | Case Number(s):<br>09-O-12631<br>09-O-17863  |  |
| nancial            | Conditions   |  |  |  |
| Restitu            | tion   |  |  |  |
| pay<br>or a        | ee(s) listed below. If the C   | ion (including the principal amour<br>Client Security Fund ("CSF") has a<br>amount(s) listed below, Respond<br>le interest and costs.  | reimbursed one or more of th   | he payee(s) for a  |
| Payee              |  | Principal Amount   | Interest Accrues From  |  |
|                    |  |  |  | _  |
|                    |  |  |  | 1  |
| L                  |  |  |  | ]  |
|                    |  | ove-reterenced restitution on the  | navment schedule set forth t   | below. Respond   |
| as o               | st provide satisfactory productions of the contract of the con | of of payment to the Office of Pro<br>Office of Probation. No later than<br>al), Respondent must make any i  | 30 days prior to the expiration  | obation report, on of the period   |
| as o               | st provide satisfactory production of the control o | of of payment to the Office of Pro<br>Office of Probation. No later than<br>al), Respondent must make any i<br>luding interest, in full.   | bation with each quarterly pr<br>30 days prior to the expirati   | obation report, on of the period   |
| as o               | st provide satisfactory production of the content o | of of payment to the Office of Pro<br>Office of Probation. No later than<br>al), Respondent must make any i<br>luding interest, in full.   | bation with each quarterly pr<br>30 days prior to the expiration<br>necessary final payment(s) in  | obation report, on of the period   |
| as o               | st provide satisfactory production of the content o | of of payment to the Office of Pro<br>Office of Probation. No later than<br>al), Respondent must make any i<br>luding interest, in full.   | bation with each quarterly pr<br>30 days prior to the expiration<br>necessary final payment(s) in  | obation report, on of the period   |
| as of profite the  | st provide satisfactory production of the continuous directed by the contin | of of payment to the Office of Pro<br>Office of Probation. No later than<br>al), Respondent must make any i<br>luding interest, in full.   | bation with each quarterly pr<br>30 days prior to the expiration<br>necessary final payment(s) in<br>Payment Frequency   | robation report, on of the period in order to comple   |
| as of profite the  | st provide satisfactory production of the continuous directed by the contin | of of payment to the Office of Pro- Office of Probation. No later than al), Respondent must make any is luding interest, in full.  Minimum Payment Amount  in installment as described above,  | bation with each quarterly pr<br>30 days prior to the expiration<br>necessary final payment(s) in<br>Payment Frequency   | robation report, on of the period in order to comple   |
| as of proof the Pa | espondent fails to pay any remaining balance is due  1. If Respondent posses report, Respondent not a specific and a specific at | of of payment to the Office of Pro- Office of Probation. No later than al), Respondent must make any is luding interest, in full.  Minimum Payment Amount  in installment as described above,  | pation with each quarterly proceed and some content of the expiration of the period covered by a rest of the period covered by a rest of the expiration of t | robation report, on of the period on order to comple order to comple or complete or comple or complete |
| as of proof the Pa | espondent fails to pay any remaining balance is due  1. If Respondent posses report, Respondent n public accountant or a. Respondent has California, at a broch the root of th | of of payment to the Office of Pro- Office of Probation. No later than al), Respondent must make any reluding interest, in full.  Minimum Payment Amount  v installment as described above, and payable immediately.  sses client funds at any time during the side of the sid | pation with each quarterly properties and days prior to the expiration ecessary final payment(s) in the payment Frequency  or as may be modified by the period covered by a rectangle of the period covered by a rectangle of the period covered by the power by the Office of Probation pank authorized to do busine  | robation report, on of the period in order to complete |
| as of proof the Pa | espondent fails to pay any remaining balance is due  1. If Respondent posses report, Respondent n public accountant or a. Respondent has California, at a broch the root of th | of of payment to the Office of Pro- Office of Probation. No later than all, Respondent must make any reluding interest, in full.  Minimum Payment Amount  installment as described above, and payable immediately.  sees client funds at any time during the sees client funds at any time during the sees of the financial professional appropriate maintained a bank account in a tranch located within the State of the office of the payment of the financial professional approximation.  | pation with each quarterly properties and days prior to the expiration ecessary final payment(s) in the payment Frequency  or as may be modified by the period covered by a rectangle of the period covered by a rectangle of the period covered by the power by the Office of Probation pank authorized to do busine  | robation report, of on of the period on order to complete to compl |

- b. Respondent has kept and maintained the following:
  - i. A written ledger for each client on whose behalf funds are held that sets forth:
    - 1. the name of such client:
    - 2. the date, amount and source of all funds received on behalf of such client;
    - 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
    - 4. the current balance for such client.
  - ii. a written journal for each client trust fund account that sets forth:
    - 1. the name of such account;
    - 2. the date, amount and client affected by each debit and credit; and,
    - 3. the current balance in such account.
  - iii. all bank statements and cancelled checks for each client trust account; and,
  - iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.
- c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:
  - i. each item of security and property held;
  - ii. the person on whose behalf the security or property is held;
  - iii. the date of receipt of the security or property;
  - iv. the date of distribution of the security or property; and,
  - v. the person to whom the security or property was distributed.
- 2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.
- 3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

#### d. Client Trust Accounting School

Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

| Case Number(s):<br>09-O-12631<br>09-O-17863 |
|---|
|   |

## **Law Office Management Conditions**

- a. Within 45 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/nine (9) 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 three (3) 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 3201, 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 one (1) 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.

Other:

## **ATTACHMENT TO**

# STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

## In the Matter of Amy Maitrayee Ghosh

Case Nos. 09-O-12631 and 09-O-17863

## **PENDING PROCEEDINGS:**

The disclosure date referred to on page two, paragraph A.(7), was June 14, 2011.

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

#### Case No. 09-O-12631

#### **FACTS**

- 1. In Fall 2007, Maria Gonzalez hired Respondent for a personal injury case.
- 2. In September 2008, Respondent settled Gonzalez' personal injury case for \$10,000.
- 3. On September 10, 2008, Respondent received the settlement draft in the amount of \$10,000 from Fireman's Fund.
  - 4. Respondent failed to deposit the Fireman's Fund draft into her client trust account.
  - 5. Respondent settled the medical lien for Gonzalez' medical provider in April 2009.
- 6. It was not until Gonzlez hired counsel and sued Respondent that Respondent paid to Gonzalez the portion of the settlement owed to Gonzalez.

### **CONCLUSIONS OF LAW**

By failing to deposit the Fireman's Fund draft into her client trust account, Respondent failed to deposit funds received for the benefit of a client in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import in wilful violation of Rule of Professional Conduct 4-100(A).

By failing to pay out to Gonzalez the portion of the settlement proceeds owed to Gonzlaez until after she was sued, Respondent failed to pay promptly, as requested by a client, any funds in Respondent's possession which the client is entitled to receive in wilful violation of Rule of Professional Conduct 4-100(B)(4).

#### Case No. 09-O-17863

#### **FACTS**

- 1. In 2007, Ajit Seghal hired Respondent to file a form I-485 application to adjust the status of his family (the "Seghals") to permanent residents. Seghal paid Respondent a check in the amount of \$4,725 for the fixed attorney fees and for advanced costs totaling \$1,725.
  - 2. Respondent failed to maintain the costs of \$1,725 in her client trust account.
- 3. Respondent paid fees in the amount of \$1,725 to the Immigration Service by checks drawn on her general business account on behalf of the Seghals.

#### **CONCLUSIONS OF LAW**

By failing to deposit and maintain the advanced costs in the amount of \$1,725 received from Seghal in her client trust account, Respondent failed to deposit funds received for the benefit of a client in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import in wilful violation of Rule of Professional Conduct 4-100(A).

### **AUTHORITIES SUPPORTING DISCIPLINE**

## STANDARDS FOR ATTORNEY SANCTIONS

To determine the appropriate level of discipline, the standards provide guidance. *Drociak v. State Bar* (1991) 52 Cal.3d 1085; *In the Matter of Sampson*, 3 Cal. State Bar Ct. Rptr. 119. A disciplinary recommendation must be consistent with the discipline in similar proceedings. *See Snyder v. State Bar* (1990) 49 Cal.3d 1302. Also, the recommended discipline must rest upon a balanced consideration of relevant factors. *In the Matter of Sampson*, 3 Cal. State Bar Ct. Rptr. 119.

Pursuant to Standard 1.3 of the Standards for Attorney Sanctions for Professional Misconduct:

The primary purposes of disciplinary proceedings conducted by the State Bar of California and of sanctions imposed upon a finding or acknowledgment 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 legal profession.

Pursuant to Standard 2.2(b) of the Standards for Attorney Sanctions for Professional Misconduct:

Culpability of a member of commingling of entrusted funds or property with personal property or the commission of another violation of rule 4-100, Rules of Professional Conduct, none of which offenses result in the wilful misappropriation of entrusted funds or property shall result in at least a three

month actual suspension from the practice of law, irrespective of mitigating circumstances.

Respondent has engaged in violations of Rule of Professional Conduct 4-100 in two client matters. However, since Respondent's conduct was limited in scope and resulted from Respondent's failure to adequately staff her office, which has since been corrected, and Respondent has established compelling mitigation, a departure from the Standards requiring a three month actual suspension is warranted. *In the Matter of Lazarus* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 387; *In the Matter of Bleecker* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 113. Here there is little chance that Respondent will engage in additional misconduct.

The stipulated discipline of a sixty day actual suspension is sufficient to protect the interests of justice and the public.

### FURTHER AGREEMENTS OF THE PARTIES

The factual statements contained in this Stipulation constitute admissions of fact and may not be withdrawn by either party, except with court approval.

#### COSTS

Respondent acknowledges that the Office of the Chief Trial Counsel has informed her that as of June 14, 2011, the estimated costs in this matter are \$3,887.89. 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.

| In the Matter of    | Case number(s): |  |
|---------------------|-----------------|--|
| AMY MAITRAYEE GHOSH | 09-O-12631      |  |
|                     | 09-O-17863      |  |

# 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.

| 6/19/11    | any Gliosh                       | Amy Maitrayee Ghosh |
|------------|----------------------------------|---------------------|
| Date /     | Respondent's Signature           | Print Name          |
| 6 1/4/2011 | Paul Jean Vingo                  | Paul Jean Virgo     |
| Date       | Respondent's Counsel Signature   | Print Name          |
| 6-14-11    | 200                              | Erin McKeown Joyce  |
| Date       | Deputy Trial Counsel's Signature | Print Name          |

| (Do not write a                 | bove this line.)  |  |  |  |
|---------------------------------|---|--|--|--|
| In the Matt                     | er of:<br>AITRAYEE GHOSH  | Case Number(s):<br>09-O-12631<br>09-O-17863  |  |  |
|                                 | ACTUAL S  | SUSPENSION ORDER   |  |  |
| Finding the requested d         | stipulation to be fair to the parties and the ismissal of counts/charges, if any, is GF   | hat it adequately protects the public, IT IS ORDERED that the RANTED without prejudice, and:   |  |  |
|                                 | The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.                                    |  |  |  |
| $\boxtimes$                     | 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.  |  |  |  |
| On page 2,                      | A(8)the years for the installment of  | costs are 2012 and 2013.   |  |  |
|                                 |   |  |  |  |
|                                 |   |  |  |  |
|                                 |   |  |  |  |
| within 15 day<br>stipulation. ( | ys after service of this order, is granted;<br>See rule 5.58(E) & (F), Rules of Proced  | ed unless: 1) a motion to withdraw or modify the stipulation, filed; or 2) this court modifies or further modifies the approved dure.) The effective date of this disposition is the effective date days after file date. (See rule 9.18(a), California Rules of |  |  |
|                                 | ly 11, 2011   | Oat Mc Elin  |  |  |
| Date //                         | Date / Judge of the State Bar Court /   |  |  |  |

#### **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 San Francisco, On July 11, 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 San Francisco, California, addressed as follows:

PAUL JEAN VIRGO PO BOX 67682 LOS ANGELES, CA 90067

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

ERIN McKEOWN JOYCE, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on July 11, 2011.

Lauretta Cramer
Case Administrator

State Bar Court