

**PUBLIC MATTER**

**State Bar Court of California  
Hearing Department  
Los Angeles  
ACTUAL SUSPENSION**

**ORIGINAL**

Counsel For The State Bar

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Case Number(s):  
09-O-15554-RAP

For Court use only

**FILED**  
JAN 23 2011  
STATE BAR COURT  
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LOS ANGELES

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Submitted to: **Settlement Judge**

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

In the Matter of:

PHYLLIS QUATMAN

Bar # 150653

A Member of the State Bar of California  
(Respondent)

**ACTUAL SUSPENSION**

PREVIOUS STIPULATION REJECTED

**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, 1990.
- (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 11 pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."



- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (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.

- (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.
- (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)  Stayed Suspension:

(a)  Respondent must be suspended from the practice of law for a period of one year.

i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.

ii.  and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

iii.  and until Respondent does the following:

(b)  The above-referenced suspension is stayed.

- (2)  Probation:

Respondent must be placed on probation for a period of two years, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

- (3)  Actual Suspension:

(a)  Respondent must be actually suspended from the practice of law in the State of California for a period of 90 days.

i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct

ii.  and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

iii.  and until Respondent does the following:

**E. Additional Conditions of Probation:**

(1)  If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in the general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.

(2)  During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.

(3)  Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of

information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.

- (4)  Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5)  Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (6)  Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7)  Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8)  Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
  - No Ethics School recommended. Reason: \_\_\_\_\_
- (9)  Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10)  The following conditions are attached hereto and incorporated:
  - 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.**

(Do not write above this line.)

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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 AND**  
**ORDER APPROVING ACTUAL SUSPENSION**

IN THE MATTER OF:        PHYLLIS MOORE QUATMAN

CASE NUMBER(S):        09-O-15554

**A. PROCEDURAL BACKGROUND**

1.        On April 9, 2008, the Supreme Court issued its order in the matter entitled *People v. McWhorter* ordering Ms. Quatman to reimburse the court the amount of \$43,560, subject to her ability to demonstrate to the court that she should be credited for work she had previously performed in connection with a habeas corpus petition prepared on behalf of Richard McWhorter.
2.        Ms. Quatman responded to the Supreme Court order on April 29, 2009.
3.        The Supreme Court referred the matter to the State Bar and an investigation was initiated in October 2009.
4.        The State Bar filed its Notice of Disciplinary Charges on August 10, 2010 and Ms. Quatman filed her Response to Notice of Disciplinary Charges on September 9, 2010.

**B. STIPULATED FACTS**

1.        On or about September 23, 2005, the Supreme Court filed an order appointing Respondent as habeas corpus/executive clemency counsel of record for Richard A. McWhorter, in the case of *People v. Richard McWhorter*, California Supreme Court case number 5068536 (“the McWhorter proceedings”). The Court approved the appointment under a fixed fee progress payment schedule.

2. On or about December 14, 2005, the Supreme Court entered an order authorizing the sum of \$39,360 as an initial payment. On January 16, 2006, the amount of \$39,360 was transmitted from the court to Respondent.

3. Respondent continued to work on the McWhorter proceeding. On or about September 14, 2007, the Supreme Court approved a second payment to Respondent in the amount of \$43,560. On or about October 9, 2007, Respondent received this second payment.

4. On or about December 3, 2007, Respondent filed a motion to withdraw as counsel of record in the McWhorter proceedings based on a conflict of interest. On or about December 19, 2007, the Supreme Court denied the motion.

5. On or about February 26, 2008, Respondent filed a second motion to withdraw as counsel of record in the McWhorter proceedings based on health issues.

6. On or about April 9, 2008, the Supreme Court granted Respondent's February 26, 2008 motion to withdraw as counsel of record and vacated her appointment. The clerk of the court served Respondent with a copy of the order by mail to Respondent's address of record at the time.

7. On or about April 9, 2008, the Supreme Court ordered Respondent to show cause whether she should be ordered to reimburse the court \$43,560, subject to her ability to demonstrate to the court that she should be credited, as appropriate, for habeas corpus "work performed that is determined by the court to be of value to the court." The clerk of the court served Respondent with a copy of the order by mail to Respondent's address of record at the time. Respondent received the order.

8. Between April, 2008 and October, 2008, Respondent did not respond to the April 9, 2008 order of the Supreme Court.
9. On or about October 3, 2008, Court Administrator and Clerk of the Supreme Court sent a letter to Respondent. The letter advised Respondent that it had been six months since the Supreme Court's April 9, 2008 order had been served, and urged Respondent to contact the Supreme Court's Appointed Counsel Claims Administrator to advise the court of Respondent's response. Respondent received the letter but did not respond until April 29, 2009.
10. On or about April 9, 2009, Court Administrator and Clerk of the Supreme Court sent a letter to Respondent. The letter reminded Respondent that it had been one year since the court had issued its April 9, 2008 order, and further advised Respondent to reply in writing within 30 days of the date of the letter.
11. On or about April 29, 2009, Respondent sent a letter to the clerk, responding to the Supreme Court's April 9, 2008 order.

### **C. CONCLUSIONS OF LAW**

By not timely responding to the court's order for an accounting of habeas corpus work performed, Respondent wilfully disobeyed a court order, in violation of Business and Professions Code 6103.

**PENDING PROCEEDINGS.**

The disclosure date referred to, on page 2, paragraph A(7), was January 6, 2011.

**COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of January 6, 2011, the prosecution costs in this matter are **\$3,654**. 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 2.6**---culpability of a member of a violation of any of the following provisions of the Business and Professions Code shall result in disbarment or suspension depending on the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3: . . . (b) sections 6103 through 6105 . . . . .

**Business and Professions Code section 6103**---a willful disobedience or violation of an order of the court . . . [constitutes cause] for disbarment or suspension.

**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.

(Do not write above this line.)

In the Matter of: PHYLLIS QUATMAN	Case number(s): 09-O-15554-RAP
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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>1/8/2011</u> Date	<u></u> Respondent's Signature	<u>PHYLLIS H. QUATMAN</u> Print Name
<u>1/10/11</u> Date	<u></u> Respondent's Counsel Signature	<u>ELLEN A PANSKY</u> Print Name
<u>1/10/11</u> Date	<u></u> Deputy Trial Counsel's Signature	<u>MIA R. ELLIS</u> Print Name

In the Matter of: <b>PHYLLIS QUATMAN</b>	Case Number(s): <b>09-O-15554-RAP</b>
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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.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date.** (See rule 9.18(a), California Rules of Court.)

Date 1/25/11

  
 Judge of the State Bar Court  
 RICHARD A. HONN

**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 January 26, 2011, I deposited a true copy of the following document(s):

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

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

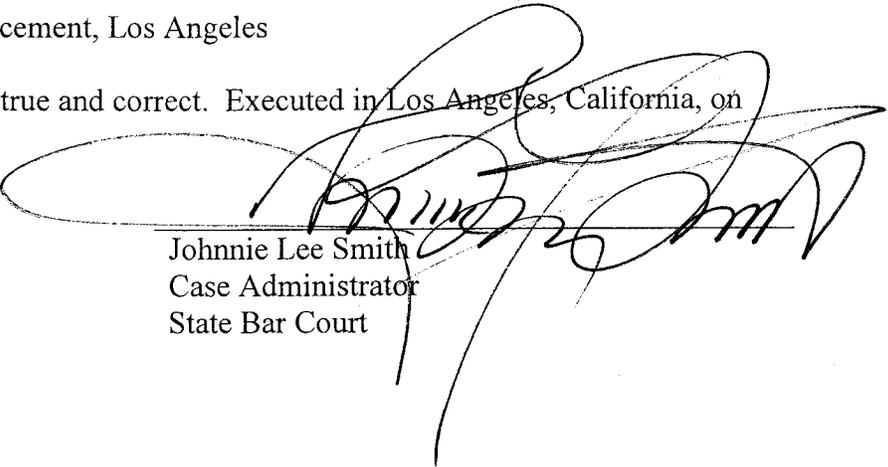
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

ELLEN ANNE PANSKY  
PANSKY MARKLE HAM LLP  
1010 SYCAMORE AVE UNIT 308  
SOUTH PASADENA, CA 91030

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

Mia R. Ellis, Enforcement, Los Angeles

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

  
\_\_\_\_\_  
Johnnie Lee Smith  
Case Administrator  
State Bar Court