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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>San Francisco</b> <b>ACTUAL SUSPENSION</b>		
<b>Counsel For The State Bar</b>  Susan I. Kagan Deputy Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2037  Bar # 214209	<b>Case Number(s):</b> 10-O-02067 [10-O-02574]	<b>For Court use only</b>  <b>PUBLIC MATTER</b>  <b>FILED</b>   JAN 12 2012  STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
<b>In Pro Per Respondent</b>  Cynthia Flahive 2360 E Bidwell St Ste 105 Folsom, CA 95630 (916) 235-8689  Bar # 207823	<b>Submitted to: Assigned Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING	
<b>In the Matter of:</b> CYNTHIA FLAHIVE  Bar # 207823  A Member of the State Bar of California (Respondent)	<b>ACTUAL SUSPENSION</b>  <input type="checkbox"/> 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 June 5, 2000.
- (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 14 pages, not including the order.

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- (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: 2013 and 2014. (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.

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- (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. See page 9.

**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. See page 9.
- (2) ☐ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☒ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings. See page 9.
- (4) ☒ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct. See page 9.
- (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. See page 9.
- (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.

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(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 two (2) 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 (3) 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 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. 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:
- |   |   |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions         | <input checked="" type="checkbox"/> 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):

## FACTS AND CONCLUSIONS OF LAW

Case No. 10-O-02067

### Facts

1. On October 7, 2009, Cheryl Shores-Taylor ("Shores-Taylor"), hired respondent's law firm to provide legal services in connection with negotiating and obtaining a home mortgage loan modification. On or about November 9, 2009, Shores-Taylor paid respondent \$897.00 as advanced fees in the loan modification matter.

### Conclusions of Law

1. By offering to perform a home mortgage loan modification for Shores-Taylor for a fee and demanding, charging, collecting and receiving fees from Shores-Taylor prior to fully performing each and every service respondent contracted to perform or represented she would perform, respondent negotiated, arranged or otherwise offered to perform a mortgage loan modification for a fee paid by the borrower, and demanded, charged, collected or received such fee prior to fully performing each and every service respondent had contracted to perform or represented that she would perform in violation of section 2944.7(a) of the Civil Code, respondent willfully violated Business and Professions Code section 6106.3.

Case No. 10-O-02754

### Facts

1. At all relevant times herein, respondent maintained a client trust funds account at Wells Fargo Bank (Account No. xxxxx2599; hereinafter "trust account" or "respondent's trust account." The account number has been excluded to protect the account from identity theft).

2. Nathaniel Giles: On November 19, 2009, respondent's law firm was hired by Nathaniel Giles ("Giles") to file a Chapter 7 bankruptcy petition ("bankruptcy matter"). On the same date, Giles paid respondent \$150 as advanced costs in the bankruptcy matter. Respondent deposited the \$150 in advanced costs into her trust account on behalf of Giles. At all relevant times herein, respondent was required to maintain the advanced costs in her trust account. Thereafter, respondent withdrew the \$150 in advanced costs from her trust account. At no time did respondent use the \$150 for the benefit of Giles in the bankruptcy matter.

3. Lewis Roper: On March 10, 2010, respondent's law firm was hired by Lewis Roper ("Roper") to file a Chapter 7 bankruptcy petition ("bankruptcy matter"). On the same date, Roper paid respondent \$150 as advanced costs in the bankruptcy matter. Respondent deposited the \$150 in advanced costs into her trust account on behalf of Roper. At all relevant times herein, respondent was required to maintain the advanced costs in her trust account. Thereafter, respondent withdrew the \$150 in advanced costs from her trust account. At no time did respondent use the \$150 for the benefit of Roper in the bankruptcy matter.

4. Vincent Vong: On May 17, 2010, respondent's law firm was hired by Vincent Vong ("Vong") to file a Chapter 7 bankruptcy petition ("bankruptcy matter"). On the same date, Vong paid respondent \$449 as advanced costs in the bankruptcy matter. Respondent deposited the \$449 in advanced costs into her trust account on behalf of Vong. At all relevant times herein, respondent was required to maintain the advanced costs in her trust account. Thereafter, respondent withdrew the \$449 in advanced costs from her trust account. At no time did respondent use the \$449 for the benefit of Vong in the bankruptcy matter. On October 29, 2010, respondent refunded \$349 to Vong. Respondent still owes Vong \$100.

5. Cecilia Masinas and Erik Neighbour: On February 9, 2010, Cecilia Masinas and Erik Neighbour ("Masinas and Neighbour"), hired respondent's law firm to provide legal services in connection with negotiating and obtaining a home mortgage loan modification. On February 9, 2010, Masinas and Neighbour paid respondent \$2,490 as advanced fees in the loan modification matter.

6. John di Schiavi and Irene Reyes: On October 6, 2009, John di Schiavi and Irene Reyes ("di Schiavi and Reyes"), hired respondent's law firm to provide legal services in connection with negotiating and obtaining a home mortgage loan modification. On November 6, 2009, di Schiavi and Reyes paid respondent \$897.50 as advanced fees in the loan modification matter.

7. Bill and Karen Moore: On October 2, 2009, Bill and Karen Moore ("the Moores"), hired respondent's law firm to provide legal services in connection with negotiating and obtaining a home mortgage loan modification. On October 16, 2009, the Moores paid respondent \$249.16 as advanced fees in the loan modification matter. On November 3, 2009, the Moores paid respondent \$249.16 as advanced fees in the loan modification matter. On November 19, 2009, the Moores paid respondent \$249.16 as advanced fees in the loan modification matter. On December 2, 2009, the Moores paid respondent \$249.16 as advanced fees in the loan modification matter. On December 16, 2009, the Moores paid respondent \$249.16 as advanced fees in the loan modification matter. On January 11, 2010, the Moores paid respondent \$249.16 as advanced fees in the loan modification matter. In total, the Moores paid respondent \$1,494.96 as advanced fees in the loan modification matter.

8. Edward Boe: On February 16, 2010, Edward Boe ("Boe"), hired respondent's law firm to provide legal services in connection with negotiating and obtaining a home mortgage loan modification. On the same date, Boe paid respondent \$1,495 as advanced fees in the loan modification matter.

#### Conclusions of Law:

1. By failing to maintain in her trust account the funds that she was required to maintain on behalf of her clients, respondent failed to maintain the balance of funds received for the benefit of a client and deposited in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import in willful violation of rule 4-100 of the Rules of Professional Conduct.

2. By offering to perform a home mortgage loan modification for Masinas and Neighbour, di Schiavi and Reyes, the Moores and Boe for a fee and demanding, charging, collecting and receiving fees from Masinas and Neighbour, di Schiavi and Reyes, the Moores and Boe prior to fully performing each and every service respondent contracted to perform or represented she would perform, respondent negotiated, arranged or otherwise offered to perform a mortgage loan modification for a fee paid by the borrower, and demanded, charged, collected or received such fee prior to fully performing each and every service respondent had



contracted to perform or represented that she would perform in violation of section 2944.7(a) of the Civil Code, respondent willfully violated Business and Professions Code section 6106.3.

#### PENDING PROCEEDINGS

The disclosure date referred to, on page 2, paragraph A(7), was December 13, 2011.

#### STATE BAR ETHICS SCHOOL

Because respondent has agreed to attend State Bar Ethics School as part of this stipulation, respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School.

#### COSTS OF DISCIPLINARY PROCEEDINGS

Respondent acknowledges that the State Bar has informed respondent that as of December 12, 2011, the estimated prosecution costs in this matter are approximately \$3,771.10. Respondent acknowledges that this figure is an estimate only and that it does not include State Bar Court costs which will be included in any final cost assessment. 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.

#### FACTS SUPPORTING AGGRAVATING AND MITIGATING CIRCUMSTANCES

##### AGGRAVATING CIRCUMSTANCES

There are no aggravating circumstances.

##### MITIGATING CIRCUMSTANCES

Standard 1.2(e)(i). Respondent has been practicing law since 2000, and has no prior record of discipline.

Standard 1.2(e)(v). Respondent displayed spontaneous candor and cooperation to the State Bar during the disciplinary proceedings.

Standard 1.2(e)(vii). Respondent displayed remorse and recognition of wrongdoing for her misconduct. On October 8, 2010, respondent voluntarily attended State Bar Client Trust Accounting School to gain a better understanding of her duties in maintaining a trust account.

Standard 1.2(e)(iv). Respondent suffered from extreme difficulties in her personal life which expert testimony would establish were directly responsible for the misconduct and have since been resolved. During the time of the misconduct, respondent was having marital difficulties. Respondent has since resolved these issues.

#### SUPPORTING AUTHORITY

Standard 2.2(a) requires disbarment for the willful misappropriation of entrusted funds; the standard requires not less than a one-year actual suspension if the amount of funds is insignificantly small or if the

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most compelling mitigating circumstances clearly predominate. Standard 2.2(b) requires at least a three-month actual suspension for a violation of rule 4-100, irrespective of mitigating circumstances.

Standard 2.10 requires that a violation of any provision of the Business and Professions Code not specified in the standards (e.g., section 6106.3) shall result in reproof or suspension according to the gravity of the offense or harm, if any, to the victim, with due regard to the purpose of imposing discipline set forth in standard 1.3.

The proper discipline for a willful violation of rule 4-100 is an actual suspension. (See *In the Matter of Koehler* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615 [six months' actual suspension for willful violation of former rule 8-101; prior record of discipline]; *In the Matter of Doran* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr 871 [six months' actual suspension for willful violation of rule 4-100; no prior record of discipline]).

Based on the compelling mitigation and lack of aggravating circumstances in this matter, a 60-day actual suspension with a three-year probationary period is appropriate and will meet the purposes of attorney discipline.

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In the Matter of: CYNTHIA FLAHIVE	Case Number(s): 10-O-02067 [10-O-02574]
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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
John di Schiavi and Irene Reyes	\$897.50	11/6/09
Bill and Karen Moore	\$1,494.96	1/11/10
Edward Boe	\$1,495.00	2/16/10

- ☒ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than two (2) years from the effective date of discipline herein.

### 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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In the Matter of: CYNTHIA FLAHIVE	Case Number(s): 10-O-02067 [10-O-02574]
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## Financial Conditions

### a. Restitution

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Payee	Principal Amount	Interest Accrues From
Nathaniel Giles	\$150.00	11/19/09
Lewis Roper	\$150.00	3/10/10
Vincent Vong	\$100.00	5/17/10
Cecilia Masinas and Erik Neighbour	\$2,490.00	2/9/10

- ☒ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than two (2) years from the effective date of discipline herein.

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- ☐ 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";

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.

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In the Matter of:  
CYNTHIA FLAHIVE

Case number(s):  
10-O-02067 [10-O-02574]

### 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.

12-20-11

Date



Respondent's Signature

Cynthia Flahive

Print Name

Date

Respondent's Counsel Signature

N/A

Print Name

12/22/11

Date

Deputy Trial Counsel's Signature

Susan I. Kagan

Print Name

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In the Matter of: CYNTHIA FLAHIVE	Case Number(s): 10-O-02067 [10-O-02574]
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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

January 12, 2012

Judge of the State Bar Court

LUCY ARMENDARIZ

## 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 January 12, 2012, 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:

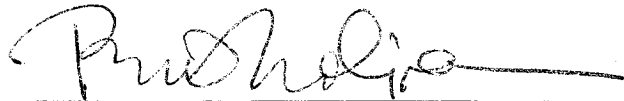
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

CYNTHIA R. FLAHIVE  
CINDER LAW GROUP  
2360 E BIDWELL ST STE 105  
FOLSOM, CA 95630

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

SUSAN I. KAGAN, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on January 12, 2012.



Bernadette C.O. Molina  
Case Administrator  
State Bar Court