

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

**PUBLIC MATTER**

<b>Counsel For The State Bar</b>  Hugh G. Radigan Deputy Trial Counsel 1149 South Hill Street Los Angeles, California 90015 213-765-1206  Bar # 94251	<b>Case Number(s):</b> 11-O-11081	<b>For Court use only</b>  <b>FILED</b>  DEC 12 2011 STATE BAR COURT CLERK'S OFFICE LOS ANGELES
<b>In Pro Per Respondent</b>  Denise I. Damrow 2960 East 20th Street Signal Hill, California 90755-5633  Bar # 100538	<b>Submitted to: Settlement Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>STAYED SUSPENSION; NO ACTUAL SUSPENSION</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
<b>In the Matter of:</b> Denise I. Damrow  Bar # 100538  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 December 1, 1981.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 12 pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."



- (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):
  - ☐ Costs are added to membership fee for calendar year following effective date of discipline.
  - ☒ Costs are to be paid in equal amounts prior to February 1 for the following membership years: 2012 and 2013. (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 or a separate attachment entitled "Prior Discipline."
- (2) ☐ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) ☐ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

- (6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) ☐ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8) ☒ **No aggravating circumstances** are involved.

**Additional aggravating circumstances**

**C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.**

- (1) ☒ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious. Respondent was admitted to practice on December 1, 1981, and has to her credit, nearly thirty (30) years of discipline free practice.
- (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. Respondent first learned of the disciplinary investigation and proceedings after Notice of Disciplinary Charges had been filed, upon receiving a telephone call from the State Bar Court to reschedule the Status Conference, and had no opportunity prior to the filing of charges to participate in the investigation or engage in an early neutral settlement evaluation conference; the filing of charges thus limited options for resolution of the complaint. Thereafter, Respondent displayed candor and cooperation but, due to the fact that she was unable to locate a copy of a portion of the files provided to her client, she was unable to support her contentions, to the satisfaction of the State Bar Trial Counsel, that she had in fact competently performed, earned all fees tendered to her by her client, One Stop Carpet & Flooring, Inc., and provided services to her client in excess of those for which the client had paid her. Additionally, to her credit, Respondent has agreed to pay restitution to her client in the amount of \$5,400 which is \$1,000 more than the fees received from her client, to complete the State Bar's 8-hour Ethics School, to take the Multistate Professional Responsibility Examination, and to a voluntary one year stayed suspension and two years probation.
- (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 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:

The above-referenced suspension is stayed.

(2) ☒ **Probation:**

Respondent is placed on probation for a period of 2 years, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court.)

#### **E. Additional Conditions of Probation:**

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

(2) ☒ 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.

(3) ☒ 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.

(4) ☒ 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.

(5) ☐ 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.

- (6) ☒ 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.
- (7) ☒ 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 State Bar Ethics School, and passage of the test given at the end of that session.
- ☐ No Ethics School recommended. Reason: .
- (8) ☐ 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.
- (9) ☒ 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 within one year. **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) ☐ **Other Conditions:**

(Do not write above this line.)

In the Matter of: <b>DENISE I. DAMROW</b>	Case Number(s): <b>11-O-11081</b>
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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
One Stop Carpet & Flooring, Inc.	\$5,400.00	November 1, 2010

- ☒ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than the expiration of the period of her one year stayed suspension..

### 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";

- 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.



**ATTACHMENT TO**  
**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF: Denise I. Damrow

CASE NUMBER(S): 11-O-11081

**FACTS AND CONCLUSIONS OF LAW.**

Respondent pleads nolo contendere to the following facts and violations. Respondent completely understands that the plea for nolo contendere shall be considered the same as an admission of the stipulated facts and of her culpability of the statutes and/or Rules of Professional Conduct specified herein.

Case No. 11-O-11081 (Complainant: Zorkot)

**FACTS:**

1. In 2007, Ahmad Zorkot employed Respondent on behalf of One Stop Carpet & Flooring, Inc., to pursue a civil action against a former employee (hereinafter "Naime") and another individual. In December 2007, Zorkot paid Respondent an attorney's fee of \$3,000.
2. In 2009, Zorkot informed Respondent that Naime had filed for bankruptcy, and asked Respondent to pursue an adversary action in connection with Naime's bankruptcy. Zorkot paid Respondent an additional attorney's fee of \$1,400.
3. In December 2009, Zorkot received a notice from the bankruptcy court that Naime's bankruptcy had been discharged.
4. After repeatedly rescheduling a planned meeting with Zorkot, Respondent met with him in May 2010. In that meeting, Zorkot asked Respondent to proceed with filing the civil action and Respondent declined to do so without payment of an advance fee.
5. Respondent did not file a civil action on Zorkot's behalf, nor did she file an adversary action in Naime's bankruptcy on Zorkot's behalf.
6. Respondent did not provide an accounting to Zorkot after he terminated her representation on or about September 23, 2010.
7. Respondent never responded to Zorkot's email terminating her services and demanding a refund of unearned attorney's fees, if any, and never provided a refund of unearned attorneys fees.

7. Respondent never responded to Zorkot's email terminating her services and demanding a refund of unearned attorney's fees, if any, and never provided a refund of unearned attorneys fees.

#### CONCLUSIONS OF LAW:

8. By not filing a civil action on Zorkot's behalf, nor an adversary action in Naime's bankruptcy on Zorkot's behalf, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

9. By not providing an accounting to Zorkot after he terminated her representation on or about September 23, 2010, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession in willful violation of Rules of Professional Conduct, rule 4-100(B)(3).

10. By not providing Zorkot a refund, Respondent failed to refund promptly any part of those attorneys fees paid that had not been earned in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

#### PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was November 15, 2011.

#### AUTHORITIES SUPPORTING DISCIPLINE.

Standard 2.2(b) provides for a three month actual suspension for a rule 4-100 violation that did not result in willful misappropriation irrespective of mitigating circumstances. Standard 2.4(b) provides for reproof or suspension where the member fails to perform in a matter not demonstrating a pattern of misconduct. Standard 2.10 provides for reproof or suspension likewise depending upon the gravity of the offense or harm to the victim for a member's violation of rules 3-700(D)(2).

The Standards should be followed whenever possible. *In re Silverton* (2005) 36 Cal. 4th 81, 92. In imposing discipline, the court should consider the appropriate discipline in light of the standards, but in so doing the court may consider any ground that may form a basis for an exception to application of the standards. *In the Matter of Van Sickle* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980. Inasmuch as the standards are not mandatory, they may be deviated from when there is a compelling, well-defined reason to do so. *Bates v. State Bar* (1990) 51 Cal. 3<sup>rd</sup> 1056, 1061.

The disposition herein allows for a deviation from the strict application of the standards since a suspension with actual time would constitute too harsh a result and would be punitive in nature. It would be manifestly unjust to strictly apply Standard 2.2(b) and good cause exists to deviate from its guidelines for Respondent's failure to provide an accounting. Respondent's client did not allege he was owed a fee refund but rather, he only inquired if a fee refund was appropriate. Nor did the client pursue fee

arbitration suggesting that the failure to provide the accounting did not harm the client. Additionally, Respondent has agreed within this stipulation to make restitution.

Standard 2.10 is the controlling standard in this matter due to Respondent's failure to meaningfully perform any facet of the retained objectives requested and paid for by Zorkot.

In consideration of the facts and circumstances surrounding Respondent's misconduct, and the aggravating and mitigating circumstances present, the parties submit that the intent and goals of the Standards are met in this matter with the imposition of a one year stayed suspension and two year probation.

#### **DISMISSALS.**

The parties respectfully request the Court to dismiss the following alleged violations in the interest of justice:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
11-O-11081	Two	Business and Professions Code section 6068(m)
11-O-11081	Three	Rules of Professional Conduct, rule 3-700(D)(1)

#### **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of November 15, 2011, the prosecution costs in this matter are approximately \$6,877.90. 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.

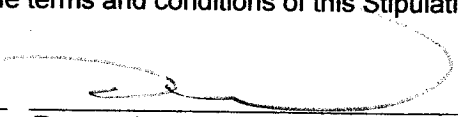
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In the Matter of:  
DENISE I. DAMROW

Case number(s):  
11-O-11081

### 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>11/22/11</u> Date	 Respondent's Signature	<u>Denise I. Damrow</u> Print Name
<u>November 22 '11</u> Date	<u>Hugh G. Radigan</u> Respondent's Counsel Signature	<u>Print Name</u>
<u>Date</u>	<u>Deputy Trial Counsel's Signature</u>	<u>Hugh G. Radigan</u> Print Name

(Do not write above this line.)

In the Matter of:  
DENISE I. DAMROW

Case Number(s):  
11-O-11081

### STAYED SUSPENSION ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- ☐ The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- ☒ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- ☐ All Hearing dates are vacated.

PAGE 2 - A(8) - DELETE "2012"  
Add "2014"

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

12-08-11

Judge of the State Bar Court

RICHARD A. PLATEL

## CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on December 12, 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:

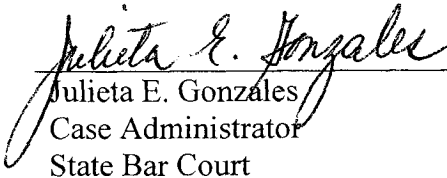
DENISE ILEENE DAMROW ATTORNEY AT LAW  
PO BOX 92483  
LONG BEACH, CA 90809

DENISE ILEENE DAMROW ATTORNEY AT LAW  
2960 EAST 20TH STREET  
SIGNAL HILL, CA 90755-5633

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

Hugh G. Radigan, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 12, 2011.

  
Julieta E. Gonzales  
Case Administrator  
State Bar Court