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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
<p>Counsel For The State Bar</p> <p>Eli D. Morgenstern Senior Trial Counsel Office of the Chief Trial Counsel 1149 S. Hill St. Los Angeles, CA 90015-2299 (213) 765-1334</p> <p>Bar # 110566</p>	<p>Case Number(s): 11-O-16745 DFM; 12-H-17536 (Inv)</p>	<p>For Court use only</p> <p style="text-align: center; font-size: 1.2em;">FILED</p> <p style="text-align: center;">JAN - 4 2013 <i>AKC</i></p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p>Leigh Anne Patten 30025 Alicia Parkway, #153 Laguna Niguel, CA 92677 (949) 257-2286</p> <p>Bar # 249790</p>	<p>Submitted to: Assigned Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p>	
<p>In the Matter of: Leigh Anne Patten</p> <p>Bar # 249790</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	

PUBLIC MATTER

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 6, 2007.
- (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 16 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: three billing cycles following the effective date of the Supreme Court order herein. See page 16 for further discussion regarding payment of disciplinary costs. (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 09-O-13962; 09-O-17086.
 - (b) Date prior discipline effective 8/11/11.
 - (c) Rules of Professional Conduct/ State Bar Act violations: RPC 1-300(B); RPC 4-200(A).
 - (d) Degree of prior discipline Private reproof.
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below.

See page 12 for further discussion regarding prior record of 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. See page 12 for further discussion regarding multiple acts 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.

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- (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:

See page 12 for facts regarding 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 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: provides 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.

E. Additional Conditions of Probation:

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- (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. See Section D(3)(a)(iii) above regarding Respondent's Ethics School requirements.
 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:**

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In the Matter of: Leigh Anne Patten	Case Number(s): 11-O-16745 DFM; 12-H-17536 (Inv.)
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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
Magdalena Lozano	\$4,500.00	12/01/08
Connie Kwok	\$5,000.00	09/18/08

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than _____.

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: Leigh Anne Patten

CASE NUMBERS: 11-O-16745-DFM, 12-H-17536 (Inv.)

FACTS AND CONCLUSIONS OF LAW.

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

WAIVER OF VARIANCE BETWEEN NOTICE OF DISCIPLINARY CHARGES AND STIPULATED FACTS AND CULPABILITY.

The parties waive any variance between the Notice of Disciplinary Charges filed on March 27, 2012 in case number 11-O-16745, and the facts and conclusions of law contained in this stipulation and waive the issuance of an Amended Notice of Disciplinary Charges.

The parties also waive the issuance of a Notice of Disciplinary Charges for case number 12-H-17536.

Case No. 11-O-16745 (Complainant: Jaimie Davis)

Facts:

1. On June 5, 2008, Jaime Davis ("Davis") employed Respondent on a contingency fee basis to represent her in a breach of contract case against George Fernandez, a landscape contractor, employed by Davis on January 30, 2007.
2. On March 11, 2009, Respondent filed a complaint on behalf Davis in a matter titled *Jaimie Davis v. George Fernandez*, Orange County Superior Court case number 30-2009-00251041-CL-BC-CJC (the "civil matter").
3. On July 13, 2010, Respondent appeared telephonically at a status conference for the civil matter. At the status conference the Court set a trial date for January 10, 2011.
4. On December 9, 2010, Respondent appeared telephonically at a status conference for the civil matter. At the status conference the Court continued the trial date to Monday, May 3, 2011.
5. During the week of Monday, April 25, 2011, Respondent contacted Davis and the opposing counsel in the civil matter and informed them that due to a serious incident involving a family member which had occurred that week, Respondent would not be able to represent Davis at the trial in the civil matter on May 3, 2011, and advised them that she would be requesting a continuance from the court.

6. During the week of Monday, April 25, 2011, Respondent and opposing counsel contacted the clerk assigned to the courtroom where the civil matter was scheduled to be conducted and Respondent informed the clerk that Respondent would be requesting a continuance of the May 3, 2011 trial date due to the incident involving her family member.

7. On Tuesday, May 3, 2011, Respondent did not appear on behalf of Davis for the first day of trial in the civil matter. The court considered and denied Respondent's request for a continuance of the civil matter. The court dismissed the civil matter without prejudice.

8. Respondent assumed that the trial in the civil matter would be continued. Opposing counsel advised Respondent that his client would not be appearing on May 3, 2011, the first day of trial. Respondent also advised Davis not to appear on May 3, 2011.

9. During the week of May 2, 2011, Davis telephoned Respondent and left voice-mail messages inquiring about the status of the civil matter. Respondent received Davis's messages. Respondent neither returned Davis's messages nor informed Davis that the civil matter was dismissed.

10. During the week of May 9, 2011, Davis telephoned the court and was informed that the civil matter was dismissed without prejudice.

11. In 2012, Davis re-filed the same complaint against the defendant in the civil matter, and obtained a default judgment against him.

Conclusions of Law:

By failing to appear on behalf of Davis on May 3, 2011, for the first day of trial in the civil matter, Respondent, recklessly, failed to perform competently in willful violation of rule 3-110(A) of the Rules of Professional Conduct.

By failing to inform Davis that the court dismissed the civil matter without prejudice, Respondent failed to keep a client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services, in willful violation of Business and Professions Code section 6068(m).

Case No. 12-H-17536

Facts:

1. On July 11, 2011, Respondent entered into a Stipulation Re: Facts, Conclusions of Law and Disposition and Order Approving Private Reproval ("reproval") with the Office of the Chief Trial Counsel of the State Bar of California in case numbers 09-O-13962 and 09-O-17086.

2. On July 21, 2011, the State Bar Court filed and properly served the reproval and the Order approving it. Respondent received the reproval and the Order approving it.

3. On August 11, 2011, the reproval became effective. Pursuant to the Order approving the reproval, Respondent was required to comply with certain conditions of the reproval for a period of two years.

4. A condition of the reproof required Respondent to make restitution to: (i) Magdalena Lozano ("Lozano"), the complainant in case number 09-O-13962, in the sum of \$4,500, plus 10% interest per annum from December 1, 2008; and (ii) Connie Kwok ("Kwok"), the complainant in case number 09-O-17086, in the sum of \$5,000, plus 10% interest per annum from September 18, 2008. Respondent was required to make a minimum payment of \$1,360 in each of the first seven reporting quarters of her probation. If Respondent failed to make a payment, the remaining balance was due and payable immediately.

5. To date, Respondent has not made restitution in any amount to either Lozano or Kwok.

6. Another condition of the reproof required Respondent to 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, within one year of the effective date of the reproof, *i.e.*, by no later than August 11, 2012.

7. To date, Respondent has not attended a session of the Ethics School.

Conclusions of Law:

By failing to make any restitution to either Lozano or Kwok, and by failing to attend a session of the Ethics School, Respondent failed to comply with the conditions attached to the reproof, in willful violation of rule 1-110 of the Rules of Professional Conduct.

OTHER PROBATION CONDITIONS.

Respondent must continue to submit quarterly reports to the Office of Probation as ordered by the State Bar Court in the Order approving the private reproof in case numbers 09-O-13962 and 09-O-17086 until the effective date of the Supreme Court order in this matter. At that time, Respondent's obligation to submit quarterly reports to the Office of Probation pursuant to the Supreme Court order in this matter will supersede her obligation to do so as ordered by the Court in the private reproof in case numbers 09-O-13962 and 09-O-17086, which is currently scheduled to terminate on August 11, 2013.

Respondent's obligation to attend Ethics School, and make restitution to Magdalena Lozano and Connie Kwok as ordered by the Supreme Court in this matter supersedes her obligation to do so as ordered by the State Bar Court in the private reproof in case numbers 09-O-13962 and 09-O-17086.

ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.

1. Prior Record of Discipline

Respondent has a prior record of discipline. On August 11, 2011, Respondent was privately reproofed. The discipline resulted from Respondent's stipulation in State Bar Court to having committed misconduct in two client matters.

In case numbers 09-O-13962 and 09-O-17086, Respondent, who is not a member of the State Bar of Nevada, represented complainants Magdalena Lozano ("Lozano") and Connie Kwok ("Kwok"),

respectively, residents of Nevada, in the negotiation of the modification of their home mortgages, which were secured by their respective homes in Nevada. By representing Lozano and Kwok in the negotiation of their respective home mortgages, Respondent violated the regulations of the legal profession in Nevada, in violation of rule 1-300(B) of the Rules of Professional Conduct.

Lozano paid Respondent an advanced fee of \$4,500 for Respondent's legal services. Kwok paid Respondent \$5,000 for his legal services. By collecting fees from Lozano and Kwok when she was not licensed to practice law in Nevada, Respondent collected an illegal fee in violation of rule 4-200(A) of the Rules of Professional Conduct.

A prior record of discipline is an aggravating factor. (Std. 1.2(b)(i).)

2. Multiple Acts of Misconduct

In case number 11-O-16745, Respondent failed to perform on behalf of, and communicate with, her client. In case number 12-H-17536, Respondent failed to comply with the conditions of a reproof. Respondent's multiple acts of misconduct are an aggravating circumstance. (Std. 1.2(b)(ii).)

FACTS RE ADDITIONAL MITIGATING CIRCUMSTANCES.

1. Cooperation

Respondent is entitled to mitigation for entering into this stipulation. (See, *Silva-Vidor* (1989) 49 Cal. 3d 1071, 1079.)

2. Family Problems

Respondent provided the State Bar with satisfactory proof that during the week of April 26, 2011, a serious incident caused significant harm to her son. The incident contributed to Respondent's failure to: (1) appear on May 3, 2011, for the first day of trial in the civil matter; and (2) inform Davis that the civil matter was dismissed without prejudice. As a result of the incident involving her son, Respondent's primary concern was the well-being of her son.

3. Physical Difficulties

With respect to Case No. 12-H-17536, Respondent provided the State Bar with medical records establishing that she has experienced serious health problems since January 2012. At times during 2012, Respondent's health problems have impaired her ability to breathe, forced her to remain at home, and prevented her from practicing law. In September 2012, a pulmonologist discovered that Respondent suffers from immunodeficiency, which may be the underlying cause of her consistent health problems throughout 2012. Respondent's health problems impacted her ability to comply with all of the conditions attached to her prior private reproof, *i.e.*, attend Ethics School and make restitution to her former clients.

Although Respondent has not rehabilitated completely from her health problems, she has begun to show steady progress since October 2012. Accordingly, Respondent is entitled to mitigation for having experienced her serious physical problems. (*In the Matter of Deirling*) (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 552, 560-561.)

AUTHORITIES SUPPORTING DISCIPLINE.

1. Standards

The Standards for Attorney Sanctions for Professional Misconduct provide a “process of fixing discipline” pursuant to a set of written principles to “better discharge the purposes of attorney discipline as announced by the Supreme Court.” (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, Introduction (all further references to standards are to this source).) The primary purposes of disciplinary proceedings and of the sanctions imposed 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.” (*In re Morse* (1995) 11 Cal.4th 184, 205; std 1.3.)

Although not binding, the standards are entitled to “great weight” and should be followed “whenever possible” in determining level of discipline. (*In re Silverton* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) Any discipline recommendation different from that set forth in the applicable standards should clearly explain the reasons for the deviation. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

Respondent admits to committing three acts of professional misconduct. Standard 1.6 (a) requires that where a Respondent acknowledges two or more acts of misconduct, and different sanctions are prescribed by the standards that apply to those acts, the sanction imposed shall be the more or most severe prescribed in the applicable standards. Here, Standards 2.4(b), 2.6(a) and 2.9 apply.

The most severe sanction applicable to Respondent’s misconduct is found in standard 2.6(a), which applies to Respondent’s violation of Business and Professions Code section 6068(m).

Standard 2.6(a) provides that culpability of a member of a violation of Business and Professions Code section 6068(m) shall result in disbarment or suspension depending upon the gravity of the offense or the harm, if any, to the victim, with due regard for the purposes of imposing discipline set forth in standard 1.3.

As noted above, Respondent has a prior record of discipline. Accordingly, Standard 1.7(a) also applies to these proceedings. Standard 1.7(a) provides that if discipline has been imposed on a member on one prior occasion, the degree of discipline imposed in the current proceeding shall be greater than that imposed in the prior proceeding unless the prior discipline imposed was so remote in time to the current proceeding and the offense for which it was imposed was so minimal in severity that imposing greater discipline in the current proceeding would be manifestly unjust.

2. Case Law

There is no case exactly like this one. However, similar cases provide guidance as to the appropriate discipline. (*In re Morse* (1995) 11 Cal.4th 184, 207-208; *Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311.)

Conroy v. State Bar (1991) 53 Cal. 3d 495 is instructive with respect to case number 12-H-17536. In *Conroy*, the attorney received a private reproof based upon three incidents of misconduct. A condition of the reproof was that the attorney take and pass the PRE within one year of the effective date of the reproof. The attorney failed to take the PRE within the time prescribed, and was subsequently charged with failing to comply with the terms of a reproof. The Supreme Court ordered the attorney actually suspended for a period of 60 days.

With respect to case number 11-O-16745, *Bach v. State Bar* (1991) 52 Cal.3d 1201 is instructive. In *Bach*, the attorney, who had practiced 27 years without a prior record of discipline, failed to: (1) perform legal services in an uncontested marital dissolution proceeding; (2) communicate adequately with his client; (3) properly withdraw from employment; (4) refund the unearned, advanced fee; and (5) cooperate in the State Bar's investigation. The Supreme Court ordered that the attorney be actually suspended for 30 days.

DISCUSSION.

Here, Respondent had a duty to: (1) appear on May 3, 2011, the first day of trial in the civil matter; and (2) inform Davis that the court denied her request for a continuance and dismissed the civil matter without prejudice.

Further still, Respondent has already been privately reproved, and failed to comply with the terms attached to the reproof.

With respect to case number 11-O-16745, although the incident involving Respondent's son may have made it difficult for Respondent to appear at trial on May 3, 2011, it did not prevent her from taking steps to protect Davis such as contacting Davis and the Court in advance of her failure to appear. Respondent did not do either of those things.

While Respondent's health problems may have made it difficult for her to comply with the terms of her reproof, they did not prevent her from filing a motion with the State Bar Court seeking an extension of time to comply with the terms. Respondent did not file such a motion.

However, Respondent's family and health problems, and her willingness to stipulate to the misconduct herein, are mitigating circumstances.

In light of the aggravating and mitigating circumstances that are present, and the pertinent case law, a discipline consisting of a 60-day actual suspension and until Respondent makes restitution to Lozano and Kwok, and until Respondent provides the Office of Probation with proof of attendance at Ethics School and passage of the MPRE is consistent with the applicable standards and case law and conforms with the purposes of attorney discipline.

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-16745	One	Business and Professions Code § 6106
11-O-16745	Two	Rule 3-700(A)(2), Rules of Professional Conduct

PENDING PROCEEDINGS.

The disclosure date referred to on page 2, paragraph A(7), was December 4, 2012.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed her that as of December 4, 2012, the prosecution costs in this matter are approximately \$4,403.48. The costs are to be paid in equal amounts prior to February 1 for the following three billing cycles following the effective date of the Supreme Court Order herein.

If Respondent fails to pay any installment within the time provided herein or as may be modified by the State Bar Court pursuant to section 6086.10, subdivision (c), the remaining balance of the costs is due and payable immediately and enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment unless relief has been granted under the Rules of Procedure of the State Bar of California. (Rules Proc. of State Bar, rule 5.134.)

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.

EXCLUSION FROM MCLE CREDIT.

Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)

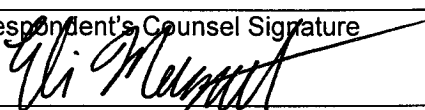
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In the Matter of: Leigh Anne Patten	Case number(s): 11-O-16745 DFM; 12-H-17536 (Inv.)
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SIGNATURE OF THE PARTIES

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.

12/10/12  Leigh Anne Patten
Date Respondent's Signature Print Name

12/11/12  Eli D. Morgenstern
Date Deputy Trial Counsel's Signature Print Name

(Do not write above this line.)

In the Matter of:
Leigh Anne Patten

Case Number(s):
11-O-16745 DFM; 12-H-17536 (Inv.)

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

1/2/2013


DONALD F. MILES
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 Los Angeles, on January 4, 2013, I deposited a true copy of the following document(s):

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

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:

**LEIGH A. PATTEN
THE LAW OFFICES OF LEIGH A. PATTEN
30025 ALICIA PKWY
153
LAGUNA NIGUEL, CA 92677**

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

ELI MORGENSTERN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 4, 2013.



Tammy Cleaver
Case Administrator
State Bar Court