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**State Bar Court of California
Hearing Department
San Francisco
PROBATION VIOLATION**



<p>Counsel For The State Bar</p> <p>Terrie Goldade 1149 S Hill St. Los Angeles, CA 90015</p> <p>Bar # 155348</p>	<p>Case Number(s): 11-PM-15237</p> <p align="center">PUBLIC MATTER</p>	<p>For Court use only</p> <p align="center">FILED <i>[Signature]</i></p> <p align="center">SEP 29 2011</p> <p align="center">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>In Pro Per Respondent</p> <p>Jennifer Fay Blackburn Ste. 2 PMB 242 16-540 Keaau Pahoa Rd Keaau, HI 96749</p> <p>Bar # 214781</p>	<p>Submitted to: Assigned Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>PROBATION VIOLATION—"PM" PROCEEDING</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: Jennifer Fay Blackburn</p> <p>Bar # 214781</p> <p>A Member of the State Bar of California (Respondent)</p>		

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 November 5, 2001.
- (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 9 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."

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- (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 (no actual suspension).
 - ☒ 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 (actual suspension).
 - ☐ Costs are to be paid in equal amounts prior to February 1 for the following membership years: (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 10-O-04415 (\$189736)
 - (b) ☒ Date prior discipline effective April 23, 2011
 - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: Business and Professions Code section 6068(k)
 - (d) ☒ Degree of prior discipline one year, stayed, two years probation, actual suspension first 30 days
 - (e) ☒ If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline. In prior case 06-O-14507 (\$159075), effective March 23, 2008, Respondent violated Rules of Professional Conduct 3-110(A), 3-700(D)(2), and Business and Professions Code section 6068(i) and (m), which resulted in discipline of one year, stayed, and two years probation.
- (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. Respondent violated multiple conditions of her probation.
- (8) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances:

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

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) ☐ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) ☐ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$ on in restitution to without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted in good faith.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) ☐ **No mitigating circumstances** are involved.

(Effective January 1, 2011)

Probation Violation

Additional mitigating circumstances:

Respondent contends that the mental and physical stress related to substantial personal and family obligations, including the financial strain of having been laid off in May 2009, led to her failure to timely comply with her probation conditions. Respondent now understands the importance of timely complying with her conditions and asserts that she will do so in the future.

D. Discipline (choose only one):

- (1) ☐ **Probation extended:** Respondent's probation in _____ is extended for _____.
- (2) ☒ **Probation revoked; Probation Reinstated; Actual Suspension:** Respondent's probation is revoked and reinstated for two years on the same terms and conditions as previously imposed in 10-O-04415 (\$189736). The terms of probation remain the same as in the prior order except as indicated below. In addition, Respondent must be actually suspended from the practice of law for 90 days.
- (3) ☐ **Probation revoked; Probation Reinstated; No Actual Suspension:** Respondent's probation is revoked and reinstated for _____ on the same terms and conditions as previously imposed in _____. The terms of probation remain the same as in the prior order except as indicated below.
- (4) ☐ **Probation revoked; Probation not Reinstated; Actual Suspension:** Respondent's probation is revoked. Respondent must be suspended from the practice of law for _____.

E. In addition to conditions previously imposed by the Supreme Court in its prior order, the following new conditions are recommended by this stipulation:

- (1) ☐ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2) ☐ 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.
- (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 in each report 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.

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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 type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) ☐ Probation Conditions Deleted or Modified: :
- (2) ☒ **Rule 9.20, California Rules of Court:** Respondent must comply with the provisions of subdivisions (a) and (c) of rule 9.20, California Rules of Court, within 30 and 40 days, respectively, from the effective date of the Supreme Court order herein.
- (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 provisions of subdivisions (a) and (c) of rule 9.20, California Rules of Court, within 120 and 130 days, respectively, from the effective date of the Supreme Court order herein.
- (4) ☐ **Other:**

Attachment language (if any):

FACTS AND CONCLUSIONS OF LAW.

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

1. On November 1, 2010, the State Bar Court filed and served upon Respondent a Stipulation re Facts, Conclusions of Law and Disposition and Order Approving in State Bar Court Case No. 10-O-04415 ("Stipulation").
2. On March 24, 2011, the California Supreme Court filed an Order in Case No. S189736 (State Bar Court Case No. 10-O-04415) that Respondent be suspended from the practice of law for a period of one year, that execution of suspension be stayed and that Respondent be placed on probation for a period of two years, including that she be suspended from the practice of law for the first 30 days of probation and that she be subject to the conditions of probation as recommended by the Hearing Department of the State Bar Court in its Stipulation filed on November 1, 2010.
 - a. As a condition of probation, Respondent was ordered to, within thirty days after the effective date of discipline—by May 23, 2011—contact the Office of Probation to schedule a meeting to discuss the terms and conditions of her probation; upon the direction of the Office of Probation, Respondent was to then meet with the probation deputy either in person or by telephone. Respondent did not comply in that Respondent did not contact the Office of Probation timely to schedule a meeting to discuss the terms and conditions of her probation, and no such meeting took place until September 3, 2011.
 - b. As a condition of probation, Respondent was ordered to comply with the State Bar Act and the Rules of Professional Conduct and to report such compliance quarterly under penalty of perjury to the Office of Probation each January 10, April 10, July 10, and October 10 ("quarterly reports"). Respondent did not comply because she did not file her first quarterly report, due July 10, 2011, until September 2, 2011.
3. On April 29, 2011, the Office of Probation mailed a reminder letter to Respondent at her membership records address outlining the terms and condition of her probation. The letter reminded Respondent of her obligations to contact the Office of Probation to schedule a meeting and to file quarterly reports. The letter enclosed numerous attachments including a courtesy quarterly report form with an instructions sheet. Respondent received the letter.
4. On June 14, 2011, the Office of Probation mailed a letter to Respondent setting forth Respondent's non-compliance with her probation conditions and advising her that she could be referred.
5. On August 4, 2011, the Office of Probation filed a motion to revoke Respondent's probation.
6. On August 30, 2011, Respondent filed her response to the motion to revoke her probation.
7. On September 2, 2011, the Office of Probation filed Respondent's quarterly report due July 10, 2011.

8. On September 6, 2011, the Office of Probation telephoned Respondent and left voice mail messages regarding the possible settlement of the pending motion to revoke probation and the scheduling of her required meeting.
9. On September 6, 2011, Respondent left a voice mail message for her Probation Deputy stating that Respondent was calling to schedule her required meeting and requested a return call.
10. On September 6, 2011, the Office of Probation returned Respondent's call and left a message requesting a call back.
11. On September 13, 2011, the Office of Probation conducted Respondent's required meeting.

Legal Conclusion: By failing to (1) timely contact the Office of Probation to schedule a meeting to discuss the terms and conditions of her probation; and (2) timely file her first Quarterly Report due July 10, 2011, Respondent willfully violated Business and Professions Code, section 6068(k).

PENDING PROCEEDINGS.

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

AUTHORITIES SUPPORTING DISCIPLINE.

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

An attorney who violated his probation by failing to timely complete restitution and by failing to timely attend Ethics School, received two years' probation with a condition that he was to be actually suspended for the first 30 days. In the Matter of Gorman (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 567. Neither bad purpose nor intentional evil is required to establish willful violations of disciplinary probation. Id. at 572. An attorney's cooperation in stipulating to facts warrants some mitigative consideration. Id. More serious sanctions are assigned to probation violations closely related to reasons for imposition of previous discipline or to rehabilitation. Id. at 573-574.

In this matter, Respondent's underlying disciplinary violation was in relation to failing to comply with her probationary conditions—specifically, failing to timely schedule her required meeting and failing to timely file a quarterly report. The probation conditions violated were related to her original misconduct, important for her rehabilitation, and were intended to assist the State Bar in monitoring Respondent's rehabilitation. However, in light of Respondent's circumstances (set forth above), it is agreed that the degree of discipline set forth in this stipulation is appropriate in relation to standard 2.6 based upon Respondent's eventual completion of her meeting and quarterly report, her stipulation to her violations, and her agreement to reinstate her probation in order to demonstrate her willingness to prove her rehabilitation.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Probation has informed respondent that as of September 7, 2011, the prosecution costs in this matter are \$2,191. 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.

WAIVER OF ANY VARIANCES

The parties stipulate to waive any variance in the language, allegations, and conclusions of law between this stipulation and the Notice of Motion and Motion to Revoke Probation filed on August 4, 2011. Respondent acknowledges that this stipulation contains language, allegations, and a conclusion of law which may differ from the language, allegations, and conclusion of law contained in the Notice of Motion and Motion to Revoke Probation filed on August 4, 2011. The parties further stipulate to waive the right to have any amendment to the Notice of Motion and Motion to Revoke Probation.

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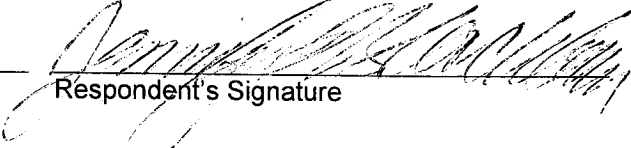

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In the Matter of: Jennifer Fay Blackburn	Case number(s): 11-PM-15237
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SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

<u>9/13/2011</u> Date	 Respondent's Signature	<u>Jennifer Fay Blackburn</u> Print Name
<u>9-19-11</u> Date	 Respondent's Counsel Signature Deputy Trial Counsel's Signature Supervising Attorneys	<u>Terrie Goldade</u> Print Name

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In the Matter of: Jennifer Fay Blackburn	Case Number(s): 11-PM-15237
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PROBATION VIOLATION 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.

1. On page 4 of the stipulation, the language next to the checked box of paragraph D.(2) is deleted in its entirety and the following language is inserted next to the checked box of paragraph D.(2):

Pursuant to rule 5.312 of the Rules of Procedure of the State Bar, the court recommends that respondent's probation, as previously ordered in Supreme Court case matter S189736 (State Bar Court case No. 10-O-04415) be revoked. The court further recommends that respondent be suspended from the practice of law for one year, execution of that period of suspension be stayed, and that she be placed on probation for two years, on the same terms and conditions as previously imposed in Supreme Court case S189736, except that respondent must be suspended from the practice of law for the first 90 days of her probation. Respondent's probation will commence on the effective date of the Supreme Court order imposing discipline in this matter.

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.)**

September 29, 2011
Date


Judge of the State Bar Court

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, On September 29, 2011, I deposited a true copy of the following document(s):

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

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

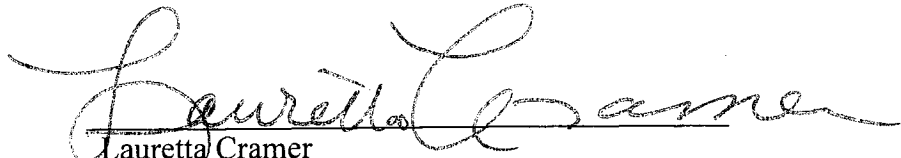
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

JENNIFER F. BLACKBURN
STE 2 PMB 242
16-540 KEAAU PAHOA RD
KEAAU, HI 96749

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

TERRIE GOLDADE , Probation , Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on September 29, 2011.


Laurretta Cramer
Case Administrator
State Bar Court