## State Bar Court of California Hearing Department San Francisco STAYED SUSPENSION Counsel For The State Bar Case Number(s): For Court use only 13-0-10353 Heather E. Abelson Deputy Trial Counsel **PUBLIC MATTER** 180 Howard Street San Francisco, CA 94105-1617 FILE (415) 538-2357 Bar # 243691 JUL - 8 2013 Counsel For Respondent STATE BAR COURT CLERK'S OFFICE Samuel C. Bellicini SAN FRANCISCO Fishkin & Slatter, LLP 1575 Treat Blvd Ste 215 Submitted to: Settlement Judge Walnut Creek, CA 94598 STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING Bar # 152191 STAYED SUSPENSION; NO ACTUAL SUSPENSION In the Matter of: SUSAN PATRICIA WIDULE PREVIOUS STIPULATION REJECTED Bar # 166530 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 9, 1993.
- (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.

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Stayed Suspension

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| (4)   |             | atement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included er "Facts."                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |  |  |  |  |  |  |  |  |
| (5)   | Cor<br>Law  | clusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of ".                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |  |  |  |  |  |  |  |  |
| (6)   |             | e parties must include supporting authority for the recommended level of discipline under the heading pporting Authority."                                                                                                                                                                                                                                                                                                                                                                                                                                                              |  |  |  |  |  |  |  |  |
| (7)   |             | more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any ding investigation/proceeding not resolved by this stipulation, except for criminal investigations.                                                                                                                                                                                                                                                                                                                                                                            |  |  |  |  |  |  |  |  |
| (8)   | Pay<br>614  | ment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 0.7. (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: (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. |  |  |  |  |  |  |  |  |
| Pro   | fess        | avating Circumstances [for definition, see Standards for Attorney Sanctions for ional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances ired.                                                                                                                                                                                                                                                                                                                                                                                                                    |  |  |  |  |  |  |  |  |
| (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)   |             | <b>Dishonesty:</b> 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)   |             | <b>Trust Violation:</b> Trust funds or property were involved and Respondent refused or was unable to accour 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)   | $\boxtimes$ | Indifference: Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct. See "Facts Supporting Aggravating Circumstances" in the attachment hereto at page 9.                                                                                                                                                                                                                                                                                                                                                             |  |  |  |  |  |  |  |  |

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| (6)    |          | <b>Lack of Cooperation:</b> 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)    |          | <b>Multiple/Pattern of Misconduct:</b> Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. See "Facts Supporting Aggravating Circumstances" in the attachment hereto at page 9.                                                                                                                                                                                                                                                 |  |  |  |  |  |  |
| (8)    | · 🔲      | No aggravating circumstances are involved.                                                                                                                                                                                                                                                                                                                                                                                                                                                 |  |  |  |  |  |  |
| Addi   | itiona   | al aggravating circumstances                                                                                                                                                                                                                                                                                                                                                                                                                                                               |  |  |  |  |  |  |
|        | _        | ating Circumstances [see standard 1.2(e)]. Facts supporting mitigating stances are required.                                                                                                                                                                                                                                                                                                                                                                                               |  |  |  |  |  |  |
| (1)    |          | <b>No Prior Discipline:</b> 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)    |          | <b>Remorse:</b> 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)    |          | <b>Restitution:</b> Respondent paid \$ on in restitution to without the threat or force of disciplinary, civil or criminal proceedings.                                                                                                                                                                                                                                                                                                                                                    |  |  |  |  |  |  |
| (6)    |          | <b>Delay:</b> 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)    |          | <b>Emotional/Physical Difficulties:</b> 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 or any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities. |  |  |  |  |  |  |
| (9)    |          | <b>Severe Financial Stress:</b> At the time of the misconduct, Respondent suffered from severe financial stres 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.                                                                                                                                                                                                                                                                                                      |  |  |  |  |  |  |
|        |          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |  |  |  |  |  |  |

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| (12)<br>,,,, |          | <b>Rehabilitation:</b> Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation. |
| (13)         |          | No mitigating circumstances are involved.                                                                                                                         |
| Addi         | ition    | al mitigating circumstances                                                                                                                                       |
|              | See      | e "Additional Facts Re Mitigating Circumstances" in the attachment hereto at page 9.                                                                              |

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| (1)  | $\boxtimes$ | Stay                                                                                                                            | ed Sus                                                   | spension:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |  |  |  |  |  |
|------|-------------|---------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|--|--|--|
| :    | (a)         | $\boxtimes$                                                                                                                     | Resp                                                     | ondent must be suspended from the practice of law for a period of one (1) year.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |  |  |  |  |  |
|      | •           | ï.                                                                                                                              |                                                          | 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         | abov                                                                                                                            | /e-refei                                                 | renced suspension is stayed.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |  |  |  |  |  |
| (2)  | $\boxtimes$ | Prot                                                                                                                            | bation:                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |  |  |  |  |  |
|      |             |                                                                                                                                 |                                                          | placed on probation for a period of one (1) year, which will commence upon the effective date Court order in this matter. (See rule 9.18 California Rules of Court.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |  |  |  |  |  |
| E. A | ۱ddi        | tiona                                                                                                                           | al Cor                                                   | nditions of Probation:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |  |  |  |  |  |
| (1)  | $\boxtimes$ | During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules or Professional Conduct. |                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |  |  |  |  |  |
| (2)  |             | State infor                                                                                                                     | e Bar a<br>mation                                        | (10) days of any change, Respondent must report to the Membership Records Office of the and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of including current office address and telephone number, or other address for State Bar as prescribed by section 6002.1 of the Business and Professions Code.                                                                                                                                                                                                                                                                             |  |  |  |  |  |
| (3)  |             | and<br>cond<br>prob                                                                                                             | schedu<br>ditions d<br>ation d                           | y (30) days from the effective date of discipline, Respondent must contact the Office of Probationale a meeting with Respondent's assigned probation deputy to discuss these terms and of probation. Upon the direction of the Office of Probation, Respondent must meet with the leputy either in-person or by telephone. During the period of probation, Respondent must neet with the probation deputy as directed and upon request.                                                                                                                                                                                               |  |  |  |  |  |
| (4)  |             | July<br>whet<br>cond<br>are a<br>curre                                                                                          | 10, and<br>ther Red<br>ditions of<br>any pro<br>ent stat | nt must submit written quarterly reports to the Office of Probation on each January 10, April 10, d October 10 of the period of probation. Under penalty of perjury, Respondent must state espondent has complied with the State Bar Act, the Rules of Professional Conduct, and all of probation during the preceding calendar quarter. Respondent must also state whether there occedings pending against him or her in the State Bar Court and if so, the case number and trus of that proceeding. If the first report would cover less than 30 days, that report must be on the next quarter date, and cover the extended period. |  |  |  |  |  |
|      |             | In ac                                                                                                                           | ddition<br>nty (20)                                      | to all quarterly reports, a final report, containing the same information, is due no earlier than days before the last day of the period of probation and no later than the last day of probation.                                                                                                                                                                                                                                                                                                                                                                                                                                    |  |  |  |  |  |
| (5)  |             | cond<br>During<br>in ac                                                                                                         | ditions on the dition                                    | nt must be assigned a probation monitor. Respondent must promptly review the terms and of probation with the probation monitor to establish a manner and schedule of compliance. period of probation, Respondent must furnish to the monitor such reports as may be requested, to the quarterly reports required to be submitted to the Office of Probation. Respondent must fully with the probation monitor.                                                                                                                                                                                                                        |  |  |  |  |  |

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| (6)   |          | inqui<br>direc           | ries of t<br>ted to F             | ssertion of a<br>he Office of<br>Respondent<br>th the proba     | Probati<br>persona                    | ion and a<br>ally or in v                          | ny prot                                    | ation                      | monitor ass                                | igned und                                          | er these c                     | conditions                            | s which are                  |
| (7)   |          | Prob                     | ation sa                          | 1) year of th<br>atisfactory po<br>the end of t                 | roof of a                             | attendanc                                          | of the d<br>e at a s                       | lisciplii<br>sessioi       | ne herein, F<br>n of the Sta               | Responder<br>te Bar Eth                            | nt must pro<br>ics Schoo       | ovide to ti<br>I, and pas             | he Office of<br>ssage of the |
|       |          |                          | No Et                             | nics School                                                     | recomn                                | nended.                                            | Reasor                                     | n:                         | •                                          |                                                    |                                |                                       |                              |
| (8)   |          | must                     | ondent<br>so dec<br>obation       | must comp<br>lare under p                                       | ly with a<br>enalty o                 | all condition of perjury                           | ons of prints of the conj                  | orobat<br>unctio           | ion imposed<br>n with any d                | d in the un<br>quarterly r                         | derlying c<br>eport to be      | riminal m<br>e filed wit              | atter and<br>h the Office    |
| (9)   |          | The                      | followin                          | g conditions                                                    | are att                               | ached he                                           | reto an                                    | d inco                     | rporated:                                  |                                                    |                                |                                       |                              |
|       |          |                          | Subst                             | ance Abuse                                                      | Condit                                | tions                                              |                                            |                            | Law Office                                 | e Manage                                           | ment Cond                      | anoitic                               |                              |
|       |          |                          | Medic                             | cal Condition                                                   | าร                                    |                                                    |                                            |                            | Financial                                  | Conditions                                         |                                |                                       |                              |
| F. C  | the      | r Cor                    | nditio                            | ns Negoti                                                       | ated b                                | y the P                                            | arties                                     | <b>3:</b>                  | * ** .                                     |                                                    |                                |                                       |                              |
| (1)   |          | the<br>Cor<br>res<br>Rul | Multistanference ults in les of C | Profession ate Profession e of Bar Exa actual susp court, and r | onal Reaminers<br>bension<br>ule 5.10 | esponsibil<br>, to the O<br>n without<br>62(A) & ( | ity Exa<br>ffice of<br>t furthe<br>E), Rul | mination<br>Proba<br>Proba | on ("MPRE'<br>ition within<br>ring until p | "), adminis<br>one year.<br><mark>assage. E</mark> | tered by the <b>Failure to</b> | he Nation<br>o pass th                | nal<br>ne MPRE               |
| (2)   |          |                          |                                   | ditions:                                                        | ended.                                | incason.                                           |                                            | •                          |                                            |                                                    | •                              |                                       |                              |
| (2)   | Ц        | Oti                      | iei coii                          | iditions.                                                       |                                       |                                                    |                                            |                            |                                            |                                                    |                                |                                       |                              |
|       |          |                          |                                   |                                                                 |                                       |                                                    |                                            |                            |                                            |                                                    |                                |                                       |                              |
|       |          |                          |                                   |                                                                 |                                       |                                                    |                                            |                            |                                            |                                                    |                                |                                       |                              |
|       |          |                          |                                   |                                                                 |                                       |                                                    |                                            |                            |                                            |                                                    |                                |                                       |                              |
|       |          |                          |                                   |                                                                 |                                       |                                                    |                                            |                            |                                            |                                                    |                                |                                       |                              |
|       |          |                          |                                   |                                                                 |                                       |                                                    |                                            |                            |                                            |                                                    |                                |                                       |                              |

## **ATTACHMENT TO**

# STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF:

SUSAN PATRICIA WIDULE

CASE NUMBER:

13-O-10353

#### 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/or Rules of Professional Conduct.

#### **FACTS:**

- 1. On August 31, 2012, Mary L. Compton ("Compton") hired Respondent to assist in a real estate transfer and to update her will and living trust.
  - 2. That same day, Compton paid Respondent \$700 in advanced attorney's fees.
- 3. Thereafter, Respondent failed to perform any work on behalf of Compton and failed to communicate with Compton.
- 4. Respondent provided no services of value on behalf of Compton. Respondent did not earn any portion of the advanced fees paid by Compton.
- 5. On September 15, 2012, Compton called Respondent's office and left a message for Respondent that she wanted to sign any necessary documents soon because she was returning to Canada, where she lives for most of the year. Respondent received Compton's message, but did not return Compton's call.
- 6. On September 19, 2012, Compton returned to Canada without having heard from Respondent or signing any documentation.
- 7. In September 2012, after returning to Canada, Compton sent original documents related to her original living trust, as well as a copy of the deed to the property that she wanted transferred, to Respondent.
- 8. On November 6, 2012, Frederick Dean ("Dean"), Compton's son-in-law, went to Respondent's office on behalf of Compton to speak to Respondent. Respondent was not at her office. Therefore, Dean left a letter in Respondent's mailbox asking Respondent to contact Compton. Respondent received the letter but failed to contact Compton or otherwise respond to the letter.
- 9. On November 13, 2012, Dean sent an email to Respondent stating that he had been unable to get in touch with Respondent. Dean also requested that Respondent either perform the services for which she had been paid to do, or refund all fees paid by Compton and return Compton's documents to her. Respondent received the email shortly after it was sent, but did not respond. With this email and Respondent's failure to respond, Respondent's services were constructively terminated.

- 10. Nonetheless, in November 2012, Dean spoke with Patricia Ann Scott ("Scott"), an attorney who shares office space with Respondent, and told her that neither he nor Compton had been able to get in touch with Respondent. Scott left two voicemail messages and one email for Respondent asking that she contact Compton or Dean. On November 26, 2012, Respondent's assistant sent an email to Scott stating that she had given both voicemail messages to Respondent. Respondent received the email and voicemail messages, yet failed to contact Scott, Dean or Compton in response to Scott's voicemail messages or email.
- 11. On November 29, 2012, Compton filed a complaint against Respondent with the State Bar ("Compton complaint").
- 12. On February 6, 2013, and again on February 28, 2013, a State Bar Investigator sent two letters to Respondent regarding the Compton complaint requesting a written response from Respondent. Respondent received the letters, but failed to provide a substantive written response to either of these letters. Instead, Respondent sent a fax to a State Bar Complaint Analyst stating that she was attempting to "work matter out" with Compton.
  - 13. In March 2013, Respondent refunded the \$700.00 in advanced attorney's fees to Compton.
  - 14. In May 2013, Respondent returned Compton's entire client file to Compton.

#### CONCLUSIONS OF LAW:

- 15. By failing to perform any work on behalf of Compton, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in wilful violation of Rules of Professional Conduct, rule 3-110(A).
- 16. By failing to refund \$700.00 in unearned fees to Compton, until four months after her request and the termination of Respondent's employment, Respondent failed to refund promptly any part of a fee paid in advance that had not been earned, in wilful violation of Rules of Professional Conduct, rule 3-700(D)(2).
- 17. By failing to respond to Compton's inquiries, or otherwise contact Compton after August 31, 2012, Respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which Respondent had agreed to provide legal services, in wilful violation of Business and Professions Code, section 6068(m).
- 18. By failing to promptly return the client file to Compton until six months after her services were terminated and Compton requested the file, Respondent failed to release promptly, upon termination of employment, to the client, at the request of the client, all the client papers and property, in wilful violation of Rules of Professional Conduct, rule 3-700(D)(1).
- 19. By not providing a substantive written response to the State Bar Investigator's February 6 and February 28, 2013 letters regarding the allegations in the Compton complaint, or otherwise cooperate in the investigation of the Compton complaint, Respondent failed to cooperate in a disciplinary investigation, in wilful violation of Business and Professions Code, section 6068(i).

### ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.

Indifference (Std. 1.2(b)(v)): Respondent took no steps to atone for the consequences of her misconduct prior to her client filing a complaint with the State Bar. Respondent's failure to take remedial steps on behalf of her client constitutes an aggravating factor pursuant to Standard 1.2(v). (In the Matter of Brockaway (Review Dept. 2006) 4 Cal. State Bar Rptr. 944, 959.)

Multiple Acts of Misconduct (Std. 1.2(b)(ii)): Respondent violated Rules of Professional Conduct, rules 3-110(A), 3-700(D)(1) and 3-700(D)(2), and Business and Professions Code, sections 6068(m) and 6068(i). Respondent's multiple acts of misconduct constitute an aggravating factor pursuant to Standard 1.2(b)(ii).

#### ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.

Pre-filing Stipulation: Although Respondent failed to participate in the State Bar investigation, she has accepted responsibility for this misconduct, and cooperated in resolving this matter without causing the State Bar to expend any further resources to prosecute this matter. Therefore, Respondent is entitled to some mitigation for entering into a full stipulation with the Office of Chief Trial Counsel prior to filing an NDC, thereby saving State Bar Court time and resources. (In the Matter of Downey (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151, 156; In the Matter of Van Sickle (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980, 993-994.) The mitigation afforded to Respondent is tempered by Respondent's prior failure to cooperate in the State Bar's investigation.

No Prior Discipline: Although Respondent's misconduct is serious, she is entitled to substantial mitigation for having practiced law for approximately 20 years without discipline. (In the Matter of Riordan (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49.)

#### AUTHORITIES SUPPORTING DISCIPLINE.

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.)

Here, Respondent committed five acts of professional misconduct. Standard 1.6 (a) requires that where a respondent commits 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. The most severe sanction is Standard 2.6(a) which requires that a violation of Business and Professions Code section 6068 "shall result in disbarment or suspension depending on the gravity of the offense or harm, if any, to the victim, with due regard to the purpose of imposing discipline set forth in standard 1.3." Pursuant to Standard 1.3, the purposes for imposing discipline are to essentially protect the public, the courts and the legal profession, to maintain high professional standards by attorneys, and to preserve the public confidence in the legal profession.

Pursuant to Standard 2.6, the appropriate level of discipline is dependent on the gravity of a respondent's misconduct, and the gravity of the harm suffered by the respondent's client. Here, the gravity of Respondent's misconduct, as well the gravity of harm suffered by her client, warrant imposition of discipline at the low end of the Standard, a stayed suspension. This case involves a single client who was not irreversibly or substantially harmed because Respondent eventually refunded the \$700 in advanced fees, and returned the client file to Compton. Respondent's misconduct is aggravated by multiple acts of misconduct and indifference. Indifference shows a lack of recognition of the seriousness of one's misconduct, which indicates a potential for future misconduct. Therefore, a suspension of some kind is warranted. However, Respondent's indifference is mitigated by the fact that she has 20 years of practice with no discipline, she recognized the seriousness of her misconduct by refunding the advanced fees and returning the client file eventually, and she entered into a pretrial stipulation with the State Bar. Because Respondent's multiple acts of misconduct and indifference are in contrast to her 20 years of practice with no discipline, as well as the fact that Respondent took affirmative steps to resolve this matter, a one year stayed suspension is appropriate pursuant to Standard 2.6.

Bach v. State Bar (1991) 52 Cal.3d 1201, also supports a one year stayed suspension. In Bach, the California Supreme Court ordered respondent Bach actually suspended from the practice of law for thirty days, for failing to perform legal services competently for a single client, failing to communicate with his client, withdrawing from representation without client consent or court approval, failing to refund unearned fees, and failing to cooperate in the State Bar's investigation. Id. at 1205. The Court noted that respondent had 26 years of prior practice with no discipline. Id. at 1204, 1208. The Court also found that respondent's refusal to accept any responsibility for the harm caused to his client, was an aggravating factor. Id. at 1209.

Here, Respondent's misconduct is similar to, yet less egregious than the misconduct at issue in Bach. Respondent, unlike Bach, did eventually return her client's fee, and the fee at issue in Bach was substantially higher than the fee at issue here. Further, Respondent has demonstrated a willingness to accept responsibility for her misconduct by returning the \$700 advanced fee, as well as the client file, after the State Bar's investigation commenced, as well as a willingness to enter into a pre-trial stipulation, unlike respondent Bach who refused to accept any responsibility for his misconduct through trial.

Balancing all of the appropriate factors, a one year stayed suspension is consistent with the Standards and Bach, and achieves the purposes of discipline as expressed in Standard 1.3.

## COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of June 15, 2013, the prosecution costs in this matter are \$2,865.00. 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 <u>not</u> receive MCLE credit for completion of State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)

| In the Matter of:     | Case number(s): |
|-----------------------|-----------------|
| SUSAN PATRICIA WIDULE | 13-O-10353      |
|                       |                 |

# SIGNATURE OF THE PARTIES

| By their signatures below,  | the parties and Their counsel  | l, as applicable, signif | y their agreement with each of the   |
|-----------------------------|--------------------------------|--------------------------|--------------------------------------|
| recitations and each of the | e terms and conditions of this | Stipulation Re Facts.    | Conclusions of Law, and Disposition. |

| 1.10.10.10        | Ma                               |                       | ٠ |
|-------------------|----------------------------------|-----------------------|---|
| 6/26/30/3<br>Date |                                  | Susan Patricia Widule |   |
| Date              | Respondent's Signature           | Print Name            |   |
| 49 me 20 p        |                                  | Samuel C. Bellicini   |   |
| Date              | Respondent's Counsel Signature   | Print Name            |   |
| 7/1/13            |                                  | Heather E. Abelson    |   |
| Date              | Deputy Trial Counsel's Signature | Print Name            |   |
|                   |                                  |                       |   |

| (Do not write above this line.)                                                                            |                                                                                |                                                                                                                                                                                       |                                                  |
|------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------|
| In the Matter of:<br>SUSAN PATRICIA WIDUL                                                                  | E                                                                              | Case Number(s):<br>13-O-10353                                                                                                                                                         |                                                  |
|                                                                                                            | STAYED SUSP                                                                    | ENSION ORDER                                                                                                                                                                          |                                                  |
| Finding the stipulation to be fair trequested dismissal of counts/ch                                       | o the parties and that it ac<br>arges, if any, is GRANTE                       | dequately protects the public, IT IS<br>D without prejudice, and:                                                                                                                     | S ORDERED that the                               |
| The stipulated fact Supreme Court.                                                                         | ts and disposition are APF                                                     | PROVED and the DISCIPLINE RE                                                                                                                                                          | COMMENDED to the                                 |
| ☐ The stipulated fact DISCIPLINE IS RE                                                                     | ts and disposition are APF<br>ECOMMENDED to the Su                             | PROVED AS MODIFIED as set for preme Court:                                                                                                                                            | th below, and the                                |
| All Hearing dates                                                                                          | are vacated.                                                                   |                                                                                                                                                                                       |                                                  |
|                                                                                                            |                                                                                |                                                                                                                                                                                       |                                                  |
|                                                                                                            |                                                                                |                                                                                                                                                                                       |                                                  |
| within 15 days after service of the stipulation. (See rule 5.58(E) & of the Supreme Court order he Court.) | nis order, is granted; or 2) (F), Rules of Procedure.) erein, normally 30 days | ess: 1) a motion to withdraw or mothis court modifies or further modifies or further modifies of this disposafter file date. (See rule 9.18(a), Y ARMENDARIZ e of the State Bar Court | nes the approved<br>lition is the effective date |

## **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 July 8, 2013, 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:

SAMUEL C. BELLICINI FISHKIN & SLATTER, LLP 1575 TREAT BLVD, STE 215 WALNUT CREEK, CA 94598

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

HEATHER ABELSON, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on July 8, 2013.

Mazie Yip

Case Administrator

State Bar Court