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<b>State Bar Court of California Hearing Department San Francisco REPROVAL</b>		
<b>Counsel For The State Bar</b>  <b>Sherrie B. McLetchie</b> <b>Senior Trial Counsel</b> <b>180 Howard Street</b> <b>San Francisco, CA 94105</b> <b>(415) 538-2297</b>  <b>Bar # 85447</b>	<b>Case Number(s):</b> <b>13-O-12491-LMA</b>	<b>For Court use only</b>  <b>PUBLIC MATTER FILED</b>  <b>MAR 12 2015</b>  <b>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</b>
<b>In Pro Per Respondent</b>  <b>Carole S. Cullum</b> <b>77 Solano Sq # 206</b> <b>Benicia, CA 94180</b> <b>(415) 378-1070</b>  <b>Bar # 114743</b>	<b>Submitted to: Settlement Judge</b>  <b>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</b>  <b>PUBLIC REPROVAL</b>  <input type="checkbox"/> <b>PREVIOUS STIPULATION REJECTED</b>	
<b>In the Matter of:</b> <b>CAROLE S. CULLUM</b>  <b>Bar # 114743</b>  <b>A Member of the State Bar of California (Respondent)</b>		

**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 3, 1984.
- (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 11 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 (public reproof).
  - Case ineligible for costs (private reproof).
  - Costs are to be paid in equal amounts prior to February 1 for the following membership years: 2016, 2017, 2018, and 2019. (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.
- (9) The parties understand that:
- (a)  A private reproof imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
  - (b)  A private reproof imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
  - (c)  A public reproof imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

**B. Aggravating Circumstances [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(f) & 1.5]. Facts supporting aggravating circumstances are required.**

- (1)  Prior record of discipline
- (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."

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- (2)  **Dishonesty:** Respondent's misconduct was intentional, surrounded by, or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3)  **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4)  **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6)  **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7)  **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8)  **Restitution:** Respondent failed to make restitution.
- (9)  **No aggravating circumstances are involved.**

**Additional aggravating circumstances:**

**C. Mitigating Circumstances [see standards 1.2(g) & 1.6]. 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, the public, or the administration of justice.
- (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 with a good faith belief that was honestly held and reasonable.
- (8)  **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical or mental disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the

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product of any illegal conduct by the member, such as illegal drug or substance abuse, and the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.

- (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 extraordinarily 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 subsequent rehabilitation.
- (13)  **No mitigating circumstances are involved.**

**Additional mitigating circumstances:**

**No Prior Discipline -- See Stipulation Attachment page 8.**

**Emotional/Physical Difficulties -- See Stipulation Attachment page 8.**

**Community Service -- See Stipulation Attachment page 8.**

**D. Discipline:**

- (1)  **Private reproof (check applicable conditions, if any, below)**
- (a)  **Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).**
- (b)  **Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).**

or

- (2)  **Public reproof (Check applicable conditions, if any, below)**

**E. Conditions Attached to Reproval:**

- (1)  **Respondent must comply with the conditions attached to the reproval for a period of one year.**
- (2)  **During the condition period attached to the reproval, 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.**

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- (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 condition period attached to the revocation. 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 the revocation 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 (thirty) days, that report must be submitted on the next following 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 condition period and no later than the last day of the condition period.

- (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 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 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 conditions attached to the revocation.
- (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)  Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year of the effective date of the revocation.

No MPRE recommended. Reason: *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891 fn 8 requires passage of a professional responsibility examination only for suspended attorneys.

- (11)  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:

Respondent must fully cooperate in the transfer of funds in the approximate amount of \$271,390.88 currently being held in a Bank of the West account on behalf of Alicia V into the custody of the Office of the Public Guardian for the City and County of San Francisco for the Conservatorship of Alicia V, San Francisco Superior Court case no. PCN 14 298064, and report to the Office of Probation any and all action respondent has taken in furtherance of said transfer in each quarterly report filed until the transfer has taken place and

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**the Office of the Chief Trial Counsel has notified the Office of Probation that the transfer has taken place, at which time this condition shall be satisfied.**

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**ATTACHMENT TO**

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

**IN THE MATTER OF:                      CAROLE S. CULLUM**

**CASE NUMBER:                              13-O-12491 - LMA**

**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.**

**Case No. 13-O-12491 (SBI)**

**FACTS:**

- 1.      In January 2007, Arnaldo Bustamante ("Bustamante") employed respondent to perform legal services, namely to represent him as conservator in a Welfare and Institutions Code section 5350 conservatorship for his sister, Alicia V<sup>1</sup>.**
- 2.      In June 2011 respondent moved out of state without making any appropriate arrangements for the approximately \$270,000 in conservatorship assets which remain to date in a conservatorship account for which respondent is the sole signatory.**
- 3.      Also in June 2011 respondent moved out of the office at the address maintained on the official membership records of the State Bar. Effective December 1, 2011, respondent changed her State Bar membership status to inactive.**
- 4.      Effective July 3, 2012, respondent was suspended for failure to pay her State Bar membership dues and continues to be suspended to date. In October 2013 respondent returned to live in the San Francisco Bay Area, but she did not change her membership records address until June 12, 2014.**

**CONCLUSIONS OF LAW:**

- 5.      By not making any arrangements for the conservatorship assets before moving out of state, and thereafter becoming an inactive member of the State Bar, respondent recklessly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).**
- 6.      By not notifying the State Bar of her change of address for approximately three years, respondent failed to comply with the requirements of Business and Professions Code section 6002.1, by not notifying the State Bar of the change in respondent's address within 30 days, and thus, willfully violated Business and Professions Code, section 6068(j).**

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<sup>1</sup> The full name of the conservatee is not being used out of concern for her privacy.

## MITIGATING CIRCUMSTANCES.

**No Prior Discipline:** Respondent was admitted to the practice of law on December 3, 1984 and has no prior record of discipline. (*Hawes v. State Bar* (1990) 51 Cal.3d 587, 596.)

**Emotional/Physical Difficulties (Std. 1.6(d)):** At the time of the stipulated acts of professional misconduct respondent suffered emotional and physical difficulties which were not the product of any illegal conduct by respondent. Specifically, as documented by medical records, in June 2011 after respondent left California and was on the road to her new home out of state, respondent was hospitalized for pneumonia. Respondent also suffered from asthma, hypertension, chronic edema, and depression – for all of which she was treated with medication.

**Community Service:** Respondent has provided the State Bar with 12 letters of support from a wide range of references in the legal and general communities, including lawyers and community activists who attest to her extensive community service. She was honored by the San Francisco Board of Supervisors in June 2011 for her activism in the gay community and against size discrimination. She was instrumental in obtaining passage of the “Compliance Guidelines to Prohibit Weight and Height Discrimination, 2001” for the City and County of San Francisco. Respondent was president of the San Francisco Board of Appeals from 1997 to 1999. (*In the Matter of Respondent K* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 335, 359; *Porter v. State Bar* (1990) 52 Cal.3d 518, 529 [mitigative credit given for community service].)

**Pretrial Stipulation:** Respondent is entitled to mitigation for entering into a stipulation with the Office of the Chief Trial Counsel prior to trial in the above referenced disciplinary matter, thereby saving the State Bar Court time and resources. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability].)

## AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct “set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances.” (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.1. All further references to Standards are to this source.) The Standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

Although not binding, the standards are entitled to “great weight” and should be followed “whenever possible” in determining level of discipline. (*In re Silvertown* (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.) If a recommendation is at the high end or low end of a Standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) “Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure.” (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)



In determining whether to impose a sanction greater or less than that specified in a given standard, in addition to the factors set forth in the specific standard, consideration is to be given to the primary purposes of discipline; the balancing of all aggravating and mitigating circumstances; the type of misconduct at issue; whether the client, public, legal system or profession was harmed; and the member's willingness and ability to conform to ethical responsibilities in the future. (Stds. 1.7(b) and (c).)

In this matter, respondent admits to committing two acts of professional misconduct. Standard 1.7(a) requires that where a respondent "commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed."

Here, Standard 2.5(c) provides that "Reproval is appropriate for failing to perform legal services or properly communicate in a single client matter" and Standard 2.8(b) provides that "Reproval is appropriate for a violation of the duties required of an attorney under Business and Professions Code section 6068(i), (j), (l), or (o)."

Because of the necessity of determining whether a private or public reproval is the approval level of discipline under Standards 2.5(c) and 2.8(a), we look to the case law. In this case, respondent failed to make any arrangements for the conservatorship assets before moving out of state, thus, failing to perform competently in a single client matter. In *Van Sloten v. State Bar* (1989) 48 Cal.3d 921 an attorney who had no prior discipline in his 12 years of practice failed to perform competently in one client matter, a marital dissolution. After the opposing party failed to sign a marital settlement agreement, Van Sloten stopped working on the case. For this "single act of failing to perform the requested services without serious consequences to the client", the Supreme Court imposed a six-month stayed suspension. However, Van Sloten did not appear for oral argument before the Review Department and the Supreme Court considered that an aggravating circumstance.

Taking *Van Sloten* into consideration, a public reproval is more appropriate to respondent's misconduct than a private reproval, especially because respondent committed two acts of misconduct.

As stated above, the primary purposes of discipline are "protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession." After consideration of the primary purposes of discipline, the lack of aggravating circumstances, the mitigation of no discipline over approximately 26 years in practice prior to the commencement of the misconduct, extensive community service, and physical and emotional difficulties, the type of misconduct at issue, whether the client, public, legal system or profession was harmed, the member's willingness and ability to conform to ethical responsibilities in the future, a public reproval conditioned on cooperation with getting the conservatee's assets into the appropriate hands of the local public guardian and attendance at Ethics School is adequate to protect the public and maintain confidence in the legal profession.

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

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of February 27, 2015, the prosecution costs in this matter are \$3,497. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

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**EXCLUSION FROM MCLE CREDIT**

Respondent may not receive Minimum Continuing Legal Education credit for completion of State Bar Ethics School ordered as a condition of this reproof. (Rules Proc. of State Bar, rule 3201.)

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In the Matter of: <b>CAROLE S. CULLUM</b>	Case number(s): <b>13-O-12491 - LMA</b>
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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.

2/28/15            Carole S. Cullum  
Date      Respondent's Signature      Print Name

3/4/15            Sherrie B. McLetchie  
Date      Senior Trial Counsel's Signature      Print Name

*CSC*

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In the Matter of:  
CAROLE S. CULLUM

Case Number(s):  
13-O-12491 - LMA

### REPROVAL ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproof, 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 REPROVAL IMPOSED.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- All court dates in the Hearing Department 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.) Otherwise the stipulation shall be effective 15 days after service of this order.

Failure to comply with any conditions attached to this reproof may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.

March 12, 2015  
Date

*Pat E. McElroy*  
PAT E. McELROY  
Judge of the State Bar Court

CSC

**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 March 12, 2015, 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:

CAROLE S. CULLUM  
77 SOLANO SQ # 206  
BENICIA, CA 94150

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

SHERRIE B. McLETCHE, Enforcement, San Francisco

TERRIE L. GOLDADE, Probation, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on March 12, 2015.



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Bernadette C.O. Molina  
Case Administrator  
State Bar Court