

(Do not write above this line.)

State Bar Court of California Hearing Department San Francisco ACTUAL SUSPENSION		
Counsel For The State Bar Sherrie B. McLetchie Senior Trial Counsel 180 Howard Street San Francisco, California 94105 (415) 538-2297 Bar # 85447	Case Number(s): 14-J-03442-LMA	For Court use only PUBLIC MATTER FILED JAN 13 2015 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
In Pro Per Respondent Denise Marie Zingale 2419 Cherry Hills Dr Discovery Bay CA 94505 (408) 314-2550 Bar # 190004	Submitted to: STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: DENISE MARIE ZINGALE Bar # 190004 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 October 31, 1997.
- (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 13 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."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".

(Effective January 1, 2014)

Actual Suspension

(Do not write above this line.)

- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: **four billing cycles immediately following the effective date of the Supreme Court order in this matter.** (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 [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.
- (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.

(Effective January 1, 2014)

Actual Suspension

(Do not write above this line.)

- (7) **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. See Stipulation Attachment pages 8 - 9.
- (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 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. See Stipulation Attachment page 9.
- (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 convincing proof of subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

(Effective January 1, 2014)

Actual Suspension

(Do not write above this line.)

Additional mitigating circumstances:

No Prior Discipline -- See Stipulation Attachment page 9.

Emotional/Physical Difficulties -- See Stipulation Attachment page 9.

Good Character -- See Stipulation Attachment page 9.

Remorse -- See Stipulation Attachment pages 9 - 10.

Pretrial Stipulation -- See Stipulation Attachment page 10.

D. Discipline:

(1) **Stayed Suspension:**

(a) Respondent must be suspended from the practice of law for a period of **two years**.

i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.2(c)(1) Standards for Attorney Sanctions for Professional Misconduct.

ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

iii. and until Respondent does the following:

(b) The above-referenced suspension is stayed.

(2) **Probation:**

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

(3) **Actual Suspension:**

(a) Respondent must be actually suspended from the practice of law in the State of California for a period of **one year**.

i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.2(c)(1), 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:

E. Additional Conditions of Probation:

- (1) If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in the general law, pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct.

(Do not write above this line.)

- (2) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (6) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- 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) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National

(Effective January 1, 2014)

Actual Suspension

(Do not write above this line.)

Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.

No MPRE recommended. Reason:

- (2) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) **Other Conditions:** As a condition of probation in this matter, respondent shall comply with the order of the US Bankruptcy Court for the Northern District of California, filed April 14, 2014, and entered against her on April 15, 2014, in case no. 13-00104 SLJ, and report under penalty of perjury in each probation report submitted to the State Bar Office of Probation that she has so complied unless or until the US Bankruptcy Court finds that she has fully complied with its order, or modifies its order. Respondent shall submit any US Bankruptcy Court finding of full compliance or modification of its order to the Office of Probation within 30 days of filing of any such order.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: DENISE MARIE ZINGALE
CASE NUMBER: 14-J-03442-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. 14-J-03442 (Discipline in Other Jurisdiction)

PROCEDURAL BACKGROUND IN OTHER JURISDICTION:

1. On October 31, 1997, respondent was admitted to the practice law before the United States District Court for the Northern District of California, including the United States Bankruptcy Court for the Northern District of California.
2. On April 8, 2013, the Chapter 13 Trustee filed a motion to review respondent's attorney fees. On May 22, 2013, the United States Bankruptcy Court for the Northern District of California issued an Order to Show Cause ("OSC") against respondent. On July 17, 2013, respondent filed a response to the OSC.
3. On July 26, 2013, respondent and the Acting United State Trustee entered into the Stipulation Between Acting United States Trustee and Attorney Denise Zingale Regarding Court's Order to Show Cause Re: Sanctions Against Debtor's Counsel. On August 19, 2013, the Bankruptcy Court approved with some modification, the Stipulation Between Acting United States Trustee and Attorney Denise Zingale Regarding Court's Order to Show Cause Re: Sanctions Against Debtor's Counsel and ordered compliance therewith.
4. On December 2, 2013, an OSC re Suspension and Disbarment was filed against respondent.
5. On February 5, 2014, a hearing was held pursuant to the December 2, 2013 OSC.
6. On April 15, 2014, the United States Bankruptcy Court, Northern District of California, ordered that respondent be disciplined upon findings that respondent had committed professional misconduct in that jurisdiction as set forth in the Order Following Hearing on Order to Show Cause Re Suspension and Disbarment. Thereafter, the decision of the United State Bankruptcy Court, Northern District of California, became final.
7. The disciplinary proceeding in the other jurisdiction provided fundamental constitutional protection.

///

///

FACTS FOUND IN OTHER JURISDICTION:

8. In September 2009 respondent founded – at the request of Milton “Mac” McLaurin, a non-lawyer -- Capital Law Offices. She was its managing attorney.

9. Thereafter, between October 2012 and October 2013, respondent allowed McLaurin to operate Capital Law Offices, hire and supervise employees, accept and work directly with clients, set fees and accept payment directly from clients, determine whether and when to file bankruptcy cases, and file bankruptcy petitions under her name and assigned electronic court filing (ECF) login number – all without respondent’s direct or effective supervision.

10. Respondent was not in control of Capital Law Offices’ finances, and rarely went into the office which allowed non-lawyer staff to file bankruptcy cases under her name without her knowledge and without making the necessary disclosures to clients or the court as required by Title 11 United States Code section 329(a).

11. Respondent did not keep Capital Law Offices clients reasonably informed of significant developments in their bankruptcy cases.

12. The bankruptcy cases filed by Capital Law Offices were filed without true intent to rehabilitate or to seek a discharge.

13. Respondent rarely met with Capital Law Offices clients.

14. In violation of the Bankruptcy Court’s August 19, 2013 order, respondent did not timely identify the cases in which she or Capital Law Offices were involved, to substitute into such cases if necessary, to determine what further work was required in each of those cases, and to bring those cases into compliance with the Bankruptcy Code and Rules.

15. Respondent’s misconduct in the Bankruptcy Court is the equivalent of willful violations of Rules of Professional Conduct, rules 1-300(A) [aiding the unauthorized practice of law], 3-110(A) [failing to perform legal services with competence], 3-500 [failing to keep clients reasonably informed about significant developments], and 3-200(B) [presenting a claim in litigation that is not warranted], and Business and Professions Code sections 6068(a) [failing to support the law of the United States] and 6103 [violating a court order].

CONCLUSION OF LAW:

16. As a matter of law, respondent’s culpability of professional misconduct determined in the proceeding in the United State Bankruptcy Court, Northern District of California, warrants the imposition of discipline under the laws and rules binding upon respondent in the State of California at the time respondent committed the misconduct in the other jurisdiction, pursuant to Business and Professions Code section 6049.1, subdivision (a).

AGGRAVATING CIRCUMSTANCES.

Pattern of Misconduct (Std. 1.5(c)): Respondent engaged in a pattern of misconduct for more than one year. As the Bankruptcy Court stated: “32 cases did not have a Rule 2016(b) statement . . . 15

cases dismissed for failure to file information or comply with court order . . . four cases dismissed for failure to pay filing fee to the court, although in some cases, the debtor had paid thousands of dollars to Capital Law . . . 5 cases dismissed for failure to provide tax return/and or pay advices . . . 1 case dismissed for multiple reasons with sanctions pending against the attorney . . . 22 cases are still pending before the Court many in a state of disrepair with pending motions to dismiss on the dockets . . . 24 clients identified by Ms. Zingale have no bankruptcy case identified." (*In the Matter of Berg* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 725, 737 [misconduct during a continuous period in excess of 10 months constitutes a pattern of misconduct].)

MITIGATING CIRCUMSTANCES.

Family Problems: Respondent suffered extreme difficulties in her personal life that were other than emotional or physical in nature. Specifically, as documented by his physician, respondent's husband was hospitalized in late 2013 which impacted respondent's ability to timely comply with the Bankruptcy Court's August 19, 2013 order.

ADDITIONAL MITIGATING CIRCUMSTANCES:

No Prior Discipline: Respondent has no prior disciplinary history. Respondent was admitted to the practice of law in 1997, approximately 15 years before the start of the misconduct herein. Even where the misconduct is serious, an attorney's lengthy period of discipline-free practice may be afforded mitigating weight. (*In the Matter of Conner* (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93, 106 [Review Department gave mitigating credit for over 12 years of discipline-free practice despite seriousness of misconduct].)

Emotional/Physical Difficulties: 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 her primary care physician, at the time of her misconduct and continuing to date, respondent suffers from anxiety for which she has and is obtaining treatment. Among other things, respondent's anxiety affects her ability to control her diabetes. The hospitalization of respondent's husband, referred to above under "Family Problems", also increased respondent's anxiety and consequently worsened her diabetes. (*In the Matter of Respondent F* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17, 29 [evidence of extreme emotional stress suffered without expert testimony that difficulties were directly responsible for misconduct taken into account by Review Department].)

Good Character: Respondent has provided the State Bar with 14 letters of support from a wide range of references in the legal and general communities, including lawyers, friends of longstanding, her son, brother, and sister, former co-workers, and clients – who had had recent contact with respondent and attested to her good character. (*In the Matter of Taylor* (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 221, 235 [testimony of 11 witnesses, including wife, brother, several friends, and four attorneys, was given modest mitigating credit because some had not had recent contact with respondent or were unfamiliar with the charges].)

Remorse: Respondent has expressed her remorse and recognition of her wrongdoing, and by keeping current with the payments to former clients of Capital Law Group ordered by the Bankruptcy Court is, to the best of her financial ability, atoning for that misconduct.

Pretrial Stipulation: By entering into this stipulation prior to trial respondent has saved the State Bar Court time and resources. Respondent's stipulation to facts, culpability, and discipline is a mitigating circumstance. (*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 was found culpable of professional misconduct in the other jurisdiction, and to determine the appropriate sanction in this proceeding, it is necessary to consider the equivalent rule or statutory violation under California law. Respondent's misconduct in the other jurisdiction demonstrates a violation of rules 1-300(A) [aiding the unauthorized practice of law], 3-110(A) [failing to act competently], 3-200(B) [presenting a claim in litigation that is not warranted under existing law], and 3-500 [failing to keep a client reasonably informed about significant developments], and Business and Professions Code sections 6068(a) [failing to support laws] and 6103 [violating a court order].

In this matter, respondent admits to committing six 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."

The most severe sanction applicable to respondent's misconduct is standard 2.5(a) which applies to respondent's violations in the Bankruptcy Court. Standard 2.5(a) provides that "Disbarment is appropriate for failing to perform legal services with clients, demonstrating a pattern of misconduct."

Here, respondent committed misconduct in 75 to 99 cases over a two-year period. Respondent aided the unauthorized practice of law by non-lawyers, failed to perform with competence, presented claims in litigation unwarranted under existing law, failed to keep clients reasonably informed of significant developments, violated federal law, and violated a Bankruptcy Court order. In *In the Matter of Huang* (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 296, the attorney allowed non-lawyers to practice “loan mod law” unsupervised under his name, and was found culpable of 28 counts of misconduct in eight client matters, including violation of Business and Professions Code section 6106.3, and Rules of Professional Conduct 1-300(A) [aiding the unauthorized practice of law], 3-110(A) [failing to perform with competence], 3-700(D)(1) [failing to timely release client files], and 4-100(B)(4) [failing to promptly pay upon client request funds to which the client is entitled]. After about two years, Huang realized that he had lost control of his branch office run by the non-lawyers and attempted to shut it down. After he was threatened with physical violence by his non-lawyer staff, he notified the local District Attorney’s Office and the State Bar and cooperated with both. Finding in aggravation, multiple acts of wrongdoing, and significant client harm, and in mitigation, no prior record of discipline over three and one-half years in practice, good character, remorse, and cooperation, the Review Department recommended what the State Bar sought: a two-year and until restitution and proof of rehabilitation actual suspension. “A lesser discipline would not protect the public, the courts, or the legal profession.” *Huang*, slip opinion page 18. Thus, *Huang* supports deviation from standard 2.5(a) and disbarment for a pattern of misconduct of failing to perform legal services with clients. Because the misconduct in *Huang* is analogous to that in this case, *Huang* also supports deviation from standard 2.5(a) in this case.

Huang had only three and one-half years of practice prior to the misconduct compared to respondent’s 15. In *Huang*, the attorney was given mitigation credit for his efforts to shut down the rogue office and cooperation with the State Bar. Respondent also unsuccessfully tried to shut down Capitol Law Group. Huang’s misconduct affected five clients. The Bankruptcy Court estimated that respondent’s misconduct affected 75 to 99 clients and that inconvenienced the Bankruptcy court. Both Huang and respondent provided evidence of their good character. Both expressed remorse. However, respondent’s much longer discipline-free practice significantly mitigates respondent’s misconduct and supports a shorter actual suspension than that imposed on Huang.

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, balancing all aggravating and mitigating circumstances (multiple acts of misconduct versus no discipline over 15 years in practice prior to the commencement of the misconduct here, family problems, emotional/physical difficulties, good character, remorse, and entering into a pretrial stipulation), 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 two-year suspension stayed, two years probation, and a one-year actual suspension from the practice of law is an appropriate level of discipline.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of December 16, 2014, the prosecution costs in this matter are \$2,447. 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

Respondent may not receive Minimum Continuing Legal Education credit for completion of State Bar Ethics School or the Multi-State Professional Responsibility Examination. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of: DENISE MARIE ZINGALE	Case Number(s): 14-J-03442-LMA
---	-----------------------------------

ACTUAL SUSPENSION ORDER

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

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

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)

Date

January 13, 2015

Pat McElroy

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 January 13, 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:

DENISE M. ZINGALE
DENISE M. ZINGALE, ESQ.
2419 CHERRY HILLS DR
DISCOVERY BAY, CA 94505

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

SHERRIE B. McLETCHIE, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on January 13, 2015.



Bernadette C.O. Molina
Case Administrator
State Bar Court