ORIGINAL

State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION PUBLIC MATTER

	ACTUAL SUST ENGION I	ODDIO MALLE -
Counsel For The State Bar	Case Number(s): 15-J-12894	For Court use only
Eli D. Morgenstern Senior Trial Counsel		
845 S. Figueroa Street		
Los Angeles, CA 90017-2515 (213) 765-1334		FILED SEP 1 6 2015 PB.
		SEP 1 6 2015 1 D.
Bar # 190560		STATE BAR COURT CLERK'S OFFICE
In Pro Per Respondent		LOS ANGELES
Amy Lynn Bingham 695 S. Vermont Ave 11 th Floor Los Angeles, CA 90005		
Bar # 250122	Submitted to: Settlement Ju	idge
I. O. Martin and	STIPULATION RE FACTS. O	CONCLUSIONS OF LAW AND
In the Matter of: AMY LYNN BINGHAM	DISPOSITION AND ORDER	
AMIT ETHI BINGINAM		\.\.\.\.\.\.\.\.\.\.\.\.\.\.\.\.\.\.\.
Bar # 250122	ACTUAL SUSPENSION	
A Member of the State Bar of California (Respondent)	☐ PREVIOUS STIPULATIO	N REJECTED

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted June 4, 2007.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **12** 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".

kwiktag* 197 147 215

(Do	not w	rite above this line.)
(6)		ne parties must include supporting authority for the recommended level of discipline under the heading supporting Authority."
(7)		o more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any ending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
(8)		ayment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 40.7. (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 waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs". Costs are entirely waived.
1	Misc	ravating Circumstances [Standards for Attorney Sanctions for Professional conduct, standards 1.2(h) & 1.5]. Facts supporting aggravating circumstances are lired.
(1)	□ (a)	Prior record of discipline 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)		Intentional/Bad Faith/Dishonesty: Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
(3)		Misrepresentation: Respondent's misconduct was surrounded by, or followed by, misrepresentation.
(4)		Concealment: Respondent's misconduct was surrounded by, or followed by, concealment.
(5)		Overreaching: Respondent's misconduct was surrounded by, or followed by, overreaching.
(6)		Uncharged Violations: Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.
(7)		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.

(Do n	ot wri	te above this line.)		
(8)		Harm: Respondent's misconduct harmed significantly a client, the public, or the administration of justice.		
(9)		Indifference: Respondent demonstrated indifference toward rectification of or atonement for the		
(10)		consequences of his or her misconduct. Candor/Lack of Cooperation: Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.		
(11)		Multiple Acts: Respondent's current misconduct evidences multiple acts of wrongdoing. See page 8.		
(12)		Pattern: Respondent's current misconduct demonstrates a pattern of misconduct.		
(13)		Restitution: Respondent failed to make restitution.		
(14)		Vulnerable Victim: The victim(s) of Respondent's misconduct was/were highly vulnerable.		
(15)		No aggravating circumstances are involved.		
		al aggravating circumstances:		
	_	ating Circumstances [see standards 1.2(i) & 1.6]. Facts supporting mitigating mstances 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 likely to recur.		
(2)		No Harm: Respondent did not harm the client, the public, or the administration of justice.		
(3)	\boxtimes	Candor/Cooperation: Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct or `to the State Bar during disciplinary investigations and proceedings. See page 8.		
(4)		Remorse: Respondent promptly took objective steps demonstrating spontaneous 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 objectively 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.		

(Do n	<u>iot wri</u>	ite abo	ve this line.)		
(9)		whi	vere Financial Stress: At the time of the misconduct, Respondent suffered from severe financial stress ch resulted from circumstances not reasonably foreseeable or which were beyond his/her control and ch 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)	\boxtimes		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. See page 9.		
(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.			
Addi	tion	al mi	tigating circumstances:		
			ing stipulation. See page 9. nunity service. See page 9.		
D. D	isci	iplin	e:		
(1)	\boxtimes	Stay	ved Suspension:		
	(a)	\boxtimes	Respondent must be suspended from the practice of law for a period of one year.		
		i.	and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general 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)	\boxtimes	The above-referenced suspension is stayed.		
(2)	\boxtimes	Prot	pation:		
			ent must be placed on probation for a period of one year , which will commence upon the effective date preme Court order in this matter. (See rule 9.18, California Rules of Court)		
(3)	\boxtimes	Actu	al Suspension:		
	(a)	\boxtimes	Respondent must be actually suspended from the practice of law in the State of California for a period of 30 days .		
		i.	and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general 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.		

(Do not write above this line.)					
(10)	(10) The following conditions are attached hereto and incorporated:				
			Substance Abuse Conditions		Law Office Management Conditions
			Medical Conditions		Financial Conditions
F. C	Other	Cor	nditions Negotiated by the Parties	s :	
(1)		Multistate Professional Responsibility Examination: Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.			
			No MPRE recommended. Reason:		
(2)		Rule 9.20, California Rules of Court: Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.			
(3)		Conditional Rule 9.20, California Rules of Court: If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.			
(4)		Credit for Interim Suspension [conviction referral cases only]: Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:			
(5)		Other Conditions:			

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF:

AMY LYNN BINGHAM

CASE NUMBER:

15-J-12894

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. 15-J-12894 (Discipline in Other Jurisdiction)

PROCEDURAL BACKGROUND IN OTHER JURISDICTION:

- 1. Respondent has never been a member of the State Bar of Utah.
- 2. On January 28, 2015, respondent entered into a "Discipline by Consent and Settlement Agreement" with the Utah State Bar's Office of Professional Conduct ("OPC") in case no. 1209065678 wherein respondent: (i) admitted to violating rule 5.5(a) (Unauthorized Practice of Law; Multijurisdictional Practice of Law), Utah Rules of Professional Conduct; and (ii) agreed to a public reprimand.
- 3. On February 4, 2015, the Second District Court of Weber County, Utah (the "Court") approved the Discipline by Consent and Settlement Agreement in case no. 1209065678 and ordered that respondent be publicly reprimanded. Thereafter, the order became final.
- 4. The disciplinary proceeding in the State of Utah provided fundamental constitutional protection.

FACTS FOUND IN OTHER JURISDICTION:

- 5. On June 4, 2007, respondent was admitted to the State Bar of California.
- 6. In August 2009, respondent moved to Utah with her husband.
- 7. In December 2009, respondent met Jill Cottle Garrett, a recent admittee to the Utah Bar, at a social gathering.
- 8. In February 2010, respondent began working as law clerk for, and leasing office space from, Ms. Garrett with the view that after respondent passed the Utah Bar examination, the two would practice law together as attorneys.
- 9. In February 2010, respondent applied for admission to the Utah State bar and planned on taking the July 2010 Bar exam.

- 10. On June 16, 2010, Ms. Garrett and respondent entered into a "Operating Agreement," which provided that, among other things, the parties would equally split fees on "joint clients," but that "joint clients" were the sole clients of Ms. Garrett. Moreover, the agreement provided that Ms. Garrett was the only party able to enter into an attorney-client relationship and needed to be included in any negotiations of representation. Many of the terms of the agreement were to be renegotiated upon respondent becoming a member of the Utah State Bar. However, respondent did not sit for the July 2010 Utah State Bar exam and never became a member of the Utah State Bar.
- 11. Nevertheless, respondent held herself out as entitled to practice, and practiced, law in the State of Utah as follows:
 - (i) On April 22, 2010, respondent entered into an attorney-client agreement to provide legal services to a Utah consumer. The agreement was entered into on behalf of Ms. Garrett without her authorization;
 - (ii) On May 10, 2010, respondent signed a doctor's lien as "attorney of record" of another Utah consumer; and
 - (iii) In the Fall of 2010, respondent met with a third Utah consumer at Ms. Garrett's office while Ms. Garrett was not present in order to discuss the consumer's divorce. During this meeting, respondent provided the Utah consumer with legal advice regarding divorce, custody, support, relocation, transportation costs, debt, and property division. Subsequently, respondent sent the consumer a draft divorce petition.
- 12. In October 2010, Ms. Garrett terminated the Operating Agreement and respondent moved out of the joint office space.

CONCLUSIONS OF LAW:

13. As a matter of law, respondent's culpability of professional misconduct determined in the proceeding in Utah 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.

Multiple Acts of Misconduct (Std. 1.5(b)): Between April 2010 and the Fall of 2010, respondent held herself out as entitled to practice, and practiced law in the State of Utah on three occasions when she was not entitled to do so.

MITIGATING CIRCUMSTANCES.

Candor/Cooperation (Std. 1.6(e)): According to the Discipline by Consent and Settlement Agreement with the Utah State Bar's Office of Professional Conduct, respondent displayed a cooperative attitude towards the disciplinary proceedings in the State of Utah. As soon as respondent received the order of public reprimand from the Second District Court of Weber County, Utah, she reported the discipline to the State Bar of California. And, at all times during these proceedings,

respondent displayed candor and cooperation to the State Bar of California. For instance, respondent responded promptly to all State Bar inquiries and willingly provided all documentation requested, including providing the State Bar with documents from the disciplinary proceedings in the State of Utah.

Good Character (Std. 1.6(f)): Respondent provided the State Bar with character letters from ten people in the legal and general communities, all of whom are aware of the full extent of respondent's misconduct, attesting to respondent's good character and commitment to the legal profession.

Prefiling Stipulation: By entering into this stipulation, which serves to resolve this matter fully without the necessity of a disciplinary trial, respondent has demonstrated that she acknowledges her misconduct and saved 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].)

Community Service: In addition to furnishing evidence of her commitment to the legal profession, respondent has furnished evidence of her commitment to the community at large. For instance, since 1995, respondent has volunteered one week each summer at a youth girls camp. For several years, she has also volunteered several times a year at the Second Harvest Food Bank in Orange County. She also belongs to JustServe.org, an organization that connects people with community service opportunities. (See *Calvert v. State Bar* (1991) 54 Cal.3d 765, 785 [service to the community is a mitigating factor that may be entitled to considerable weight].)

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 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.) 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. Specifically, respondent's misconduct in the other jurisdiction demonstrates a violation of Rules of Professional Conduct, rule 1-300(B).

There is no standard that applies to a violation of Rules of Professional Conduct, rule 1-300(B). Therefore Standard 2.19 applies. Standard 2.19 provides that a suspension not to exceed three years or reproval is the presumed sanction for a violation of a provision of the Rules of Professional Conduct not specified in the standards. The discipline in cases involving the unauthorized practice of law range from 30 days' to six months actual suspension. (*In the Matter of Wells* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896, 913-914.)

Here, respondent had planned on taking the July 2010 Utah State Bar Exam and practicing law with a licensed Utah attorney. However, respondent never took the Utah Bar Exam and never became a licensed Utah attorney. Nevertheless, between April 2010 and continuing through the Fall of 2010, respondent practiced law, and/or held herself out as entitled to practice law in the State of Utah by: (1) entering into an attorney-client agreement on behalf of a Utah attorney with that attorney's authorization; (2) signing a doctor's lien as the "attorney of record" on behalf of a Utah consumer; and (3) informing, counseling, and advising a Utah consumer on divorce matters and by drafting a divorce petition on her behalf. Respondent's multiple acts of misconduct are a significant aggravating factor.

But, the mitigating factors surrounding respondent's misconduct are also significant. Respondent's cooperative attitude with the Utah State Bar's Office of Professional Conduct, her prompt reporting of her discipline in the State of Utah to the State Bar of California, her subsequent candor and cooperation to the Office of the Chief Trial Counsel, the evidence of her good character and commitment to the legal profession and community at large, and her agreement to enter into this stipulation, wherein she acknowledges her misconduct, are positive indicators of respondent's willingness and ability to conform to ethical responsibilities in the future.

And, it is important to note that there was no evidence presented in the Utah disciplinary proceedings that respondent's misconduct caused harm to any of the Utah consumers.

In consideration of respondent's misconduct, the applicable standards, the aggravating and mitigating factors surrounding the misconduct, the lack of harm, respondent's willingness and ability to conform to ethical responsibilities in the future, and the purposes of attorney discipline, a discipline consisting of a short actual suspension is warranted. Specifically, a discipline consisting of a one year suspension, stayed, and one year of probation, with conditions including a 30-day actual suspension will serve adequately the purposes of attorney discipline.

The case law also supports the discipline recommendation. In *In the Matter of Wells, supra*, 4 Cal. State Bar Ct. Rptr. 896, the attorney, while residing in South Carolina, represented two clients with their respective employment discrimination cases even though the attorney was not a licensed South Carolina attorney. In one of the matters, in addition to finding that the attorney engaged in the unauthorized practice of law in the State of South Carolina, the Review Department also found that the attorney charged an illegal fee, failed to refund the fee, and failed to maintain client funds in trust. In a second matter, the Review Department found that the attorney engaged in the unauthorized practice of law in South Carolina, collected an unconscionable fee, failed to return the fee, made a misrepresentation to the State Bar, and another misrepresentation to the Solicitor's office. (*Id.* at pp. 908-911.) In addition, the attorney had a prior record of discipline. The Review Department recommended that the attorney be

suspended for two years, stayed, and that she be placed on probation for two years on the condition that she be actually suspended for six months and until she paid restitution.

Here, respondent's misconduct is less diverse and serious than the misconduct committed by the attorney in *Wells*. Respondent has also presented significant mitigating evidence. And, respondent does not have a prior record of discipline. For these reasons, respondent's misconduct warrants a less severe discipline than that received by the attorney in *Wells*.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed her that as of August 14, 2015, the prosecution costs in this matter are \$3,066. The discipline costs are to be paid in equal amounts prior to February 1 for the following three billing cycles following the effective date of the Supreme Court Order herein.

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):	
AMY L. BINGHAM	15-J-12894 `´	

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.

8 21/2015 Date	Respondent's Signature	Amy L. Bingham Print Name	_
Date	Respondent's Counsel Signature	Print Name	
8124115	y Mulgater	Eli D. Morgenstern	
Date	Senior Trial Coursel's Signature	Print Name	_

(Do not write a	bove this line.)	
In the Matter of: AMY L. BINGHAM		Case Number(s): 15-J-12894
	ACTUAL	SUSPENSION ORDER
	stipulation to be fair to the parties and t smissal of counts/charges, if any, is GF	hat it adequately protects the public, IT IS ORDERED that the RANTED without prejudice, and:
×	The stipulated facts and disposition a Supreme Court.	are APPROVED and the DISCIPLINE RECOMMENDED to the
	The stipulated facts and disposition a DISCIPLINE IS RECOMMENDED to	are APPROVED AS MODIFIED as set forth below, and the the Supreme Court.
	All Hearing dates are vacated.	
within 15 day stipulation. (S	s after service of this order, is granted; See rule 5.58(E) & (F), Rules of Proced	d unless: 1) a motion to withdraw or modify the stipulation, filed or 2) this court modifies or further modifies the approved ure.) The effective date of this disposition is the effective date days after file date. (See rule 9.18(a), California Rules of
(9/16/15	MARGUMA
Date	•	DONALD F. MILES

Judge of the State Bar Court

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on September 16, 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 Los Angeles, California, addressed as follows:

AMY L. BINGHAM RELC 695 S VERMONT AVE 11TH FL LOS ANGELES, CA 90005

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

Eli D. Morgenstern, Enforcement, Los Angeles

Terrie Goldade, Probation, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 16, 2015.

Paul Barona

Case Administrator

State Bar Court