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State Bar Court of California Hearing Department San Francisco ACTUAL SUSPENSION		
<p>Counsel For The State Bar</p> <p>Robert A. Henderson Supervising Senior Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2385</p> <p>Bar # 173205</p>	<p>Case Number(s): 15-O-12422-PEM 15-O-14051 15-O-14556 [INV]</p>	<p>For Court use only</p> <p style="text-align: center;">PUBLIC MATTER</p> <p style="text-align: center;">FILED</p> <p style="text-align: center;">JUL - 7 2016 ^{NS}</p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>Counsel For Respondent</p> <p>Samuel C. Bellicini 1005 Northgate Dr # 240 San Rafael, CA 94903 (415) 298-7284</p> <p>Bar # 152191</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: DOLORES VICTOR</p> <p>Bar # 221720</p> <p>A Member of the State Bar of California (Respondent)</p>		

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **December 5, 2002**.
- (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 **16** 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."



(Effective July 1, 2015)

Actual Suspension

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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):
- 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: **Three 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(h) & 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) **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.

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- (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.
- (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 consequences of his or her misconduct.
- (10) **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 "Facts Supporting Aggravating Circumstances" in the attachment hereto at page 12.
- (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.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standards 1.2(i) & 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 likely to recur.
- (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 or to the State Bar during disciplinary investigations and proceedings.
- (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. See "Facts Supporting Mitigating Circumstances" in the attachment hereto at page 12.
- (5) **Restitution:** Respondent paid \$ 5,000 on June 8, 2015 in restitution to Julissa Solano without the threat or force of disciplinary, civil or criminal proceedings. See "Facts Supporting Mitigating Circumstances" in the attachment hereto at page 13.
- (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

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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. **See "Facts Supporting Mitigating Circumstances" in the attachment hereto at page 12.**

- (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. **See "Facts Supporting Mitigating Circumstances" in the attachment hereto at page 12.**
- (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.

Additional mitigating circumstances:

No Prior Discipline - See "Facts Supporting Mitigating Circumstances" in the attachment hereto at page 12.

Pre-trial Stipulation- See "Facts Supporting Mitigating Circumstances" in the attachment hereto at page 13.

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 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) 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 **90 days**.

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- 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:

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 present learning and ability in the general law, pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct.
- (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.

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- (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: **Respondent successfully completed Ethics School on April 21, 2016.**
- (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 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:**

10. On November 24, 2014, a Member Services representative spoke with respondent, and explained the reinstatement process to her.

11. On November 25, 2014, respondent and a Member Services representative exchanged emails regarding self-study credit for MCLE compliance.

12. On December 16, 2014, Member Records sent a letter to respondent stating that she had been placed on inactive status, and notifying her that her file may be referred for disciplinary prosecution. Respondent received this letter.

13. On December 23, 2014, respondent filed a civil complaint on behalf of Thibodeaux in San Francisco Superior Court, *Thibodeaux v. Central Concrete Supply Co.*, case no. CGC14543370. Respondent represented herself as Thibodeaux's attorney in this complaint. Respondent paid the \$450 filing fee. Respondent also paid \$62.25 for service of the complaint on the defendant.

14. On January 23, 2015, Thibodeaux learned that respondent was not eligible to practice law when he visited the Department of Fair Employment and Housing ("DFEH") and a DFEH employee looked respondent up on the State Bar website. That day, Thibodeaux hired another attorney, and sent respondent an email discharging her and requesting a refund.

15. On January 26, 2015, Thibodeaux faxed a Substitution of Attorney form to respondent, and sent a follow-up email in which he confirmed that the defendants in his civil matter had been served with the summons and complaint.

16. On January 26, 2015, respondent and a Member Services representative exchanged emails regarding respondent providing proof of MCLE compliance.

17. On January 27, 2015, respondent provided proof of late compliance with her MCLE requirements, and sent a letter to Member Services requesting to be returned to active status.

18. On January 27, 2015, Member Services sent a letter to respondent confirming that she had been returned to active status. Respondent received this letter.

19. On February 16, 2015, Thibodeaux sent a letter to respondent inquiring as to the status of his refund.

20. On March 11, 2015, Thibodeaux sent another email to respondent requesting a refund of his retainer.

21. On March 13, 2015, respondent sent a letter to Thibodeaux stating that she would not refund his retainer because all of the funds had been used for work she performed. In this letter, respondent admitted that the topic of her eligibility to practice law did not come up at the November 7, 2014 meeting.

22. On March 15, 2015, respondent sent an email to Thibodeaux attaching the March 13, 2015 letter, and further notifying Thibodeaux that a lien had been placed on any recovery Thibodeaux received for monies still owed.

23. On April 20, 2015, respondent's assistant sent an email to Thibodeaux and his new counsel requesting a status update of the \$6,500 which respondent believed was owed to her.

24. On April 21, 2015, Thibodeaux sent an email to respondent stating that he had already paid \$6,500, and had never received his case file or an itemized list of services performed.

25. On April 21, 2015, respondent's assistant sent a follow-up email to Thibodeaux regarding fees purportedly owed.

26. Thereafter, respondent provided Thibodeaux's case file to Thibodeaux's successor counsel.

27. On September 14, 2015, respondent provided a refund check to Thibodeaux in the amount of \$5,000.

CONCLUSIONS OF LAW:

28. By providing legal advice to George Thibodeaux on November 7, 2014, and filing a civil complaint in San Francisco Superior Court on December 23, 2014, respondent held herself out as entitled to practice law, and actually practiced law, when she was not an active member of the State Bar in willful violation of Business and Professions Code, sections 6125 and 6126, thereby failed to support the laws of the State of California, in willful violation of Business and Professions Code, section 6068(a).

29. By providing legal advice to George Thibodeaux on November 7, 2014, and filing a civil complaint in San Francisco Superior Court on December 23, 2014, respondent held herself out as entitled to practice law, and actually practiced law, when respondent knew that she was not an active member of the State Bar, and thereby committed an act of moral turpitude, dishonesty or corruption, in willful violation of Business and Professions Code, section 6106.

30. By collecting from George Thibodeaux an advanced fee of \$5,000 on November 7, 2014 to perform legal services, when respondent was not entitled to practice law, respondent collected an illegal fee in willful violation of the Rules of Professional Conduct, rule 4-200(A).

Case No. 15- 14051 (State Bar Investigation)

FACTS:

31. Respondent was required to comply with and complete 25 hours of MCLE requirements between February 1, 2011 and January 31, 2014 (hereinafter, the "compliance period").

32. On December 11, 2013, respondent reported to the State Bar under penalty of perjury that she had complied with the MCLE requirement. In reality, respondent had not completed any MCLE credits during the compliance period. As of December 11, 2013, respondent actually knew that she had not complied with the MCLE requirement.

33. On July 7, 2014, State Bar Member Records sent a letter to respondent informing her that she had been selected for an audit of her compliance. The letter instructed respondent "submit proof of compliance by August 21, 2014." Respondent received this letter.

34. Respondent failed to provide proof of MCLE compliance to Member Records by August 21, 2014.

35. On August 29, 2014, Member Records sent a letter to respondent which stated that respondent had failed to comply with the audit, and had been assessed a penalty fee of \$75. The letter further stated that respondent would be placed on inactive status if she did not provide proof of compliance and pay the penalty fee on or before October 31, 2014. Respondent received this letter.

36. On October 14, 2014, Member Records sent a final notice of non-compliance to respondent, again giving respondent the October 31, 2014 deadline to provide proof of compliance. Respondent received this notice.

37. Respondent failed to provide proof of compliance or pay the penalty fee by October 31, 2014.

38. On November 10, 2014, Member Records sent another letter to respondent stating that she had been enrolled inactive and assessed a further penalty fee of \$200 for failing to provide proof of MCLE compliance. Respondent received this letter.

39. On December 16, 2014, Member Records sent a letter to respondent stating that she had been placed on inactive status, and notifying her that her file may be referred for disciplinary prosecution. Respondent received this letter.

40. On January 27, 2015, respondent submitted proof of MCLE compliance and paid the \$200 reinstatement fee. Respondent provided proof of taking 25 MCLE hours outside of the period of compliance.

41. On January 27, 2015, Member Records sent a letter to respondent stating that she had been placed back on active status since she had provided proof of MCLE compliance.

CONCLUSIONS OF LAW:

42. By reporting under penalty of perjury to the State Bar that she was in compliance with the MCLE requirements when she knew that she had failed to complete the MCLE requirements for the compliance period, respondent committed an act involving moral turpitude, dishonesty and corruption in willful violation of Business and Professions Code section 6106.

Case No. 15-O-14556

FACTS:

43. Between June 1, 2013 and May 4, 2015, respondent extensively commingled her personal funds with client funds in her client trust account at JPMorgan Chase Bank, N.A., account no. *****1864 ("CTA"), by using the debit card linked to this account to pay for personal expenses on more than 100 separate occasions. Respondent did not maintain adequate trust records of the funds belonging to her and the funds belonging to her clients.

44. On March 1, 2014, respondent and Julissa Solano ("Solano") executed a contingency fee agreement for respondent to represent Solano in an employment discrimination matter.

45. Around March 5, 2014, respondent filed a claim with the Department of Fair Employment & Housing ("DFEH") on behalf of Solano. Respondent also represented Solano at a mediation before the DFEH.

46. On August 26, 2014, respondent sent an email to Solano stating that if Solano wanted to go ahead and file a civil lawsuit, Solano would need to sign a new retainer agreement. Respondent also requested that Solano give her \$5,000 in advanced costs for filing the lawsuit, private mediation, and expert witness fees.

47. On August 29, 2014, Solano signed a second contingency fee agreement with respondent, and paid \$5,000 by check for "costs of suit." The retainer agreement expressly stated that the \$5,000 was for costs.

48. On September 2, 2014, respondent deposited the \$5,000 check into her CTA.

49. Shortly thereafter, on November 1, 2014, respondent was placed on inactive status for failing to comply with MCLE requirements.

50. Between December 2, 2014 and January 27, 2015, when respondent was not entitled to practice law, respondent and Solano exchanged emails and telephone calls related to Solano's case. Respondent did not notify Solano of her suspension.

51. Respondent returned to active status on January 27, 2015.

52. On March 31, 2015, the closing balance in respondent's CTA was \$10.53.

53. On April 23, 2015, Solano sent an email requesting a status update from respondent.

54. On April 24, 2015, respondent sent a response email, in which respondent recommended not moving forward with filing a civil lawsuit.

55. Thereafter, Solano hired a new attorney to represent her in the civil action against her former employer.

56. On June 2, 2015, Solano sent an email to respondent requesting an itemization of costs, and a refund of the \$5,000 in advanced costs.

57. On June 8, 2015, respondent provided Solano a refund check for \$5,000 in advanced costs.

CONCLUSIONS OF LAW:

58. By providing legal advice to Julissa Solano between December 2, 2014 and January 27, 2015, respondent held herself out as entitled to practice law, and actually practiced law, when she was not an active member of the State Bar in willful violation of Business and Professions Code, sections 6125 and 6126, thereby failed to support the laws of the State of California, in willful violation of Business and Professions Code, section 6068(a).

59. By providing legal advice to Julissa Solano between December 2, 2014 and January 27, 2015, respondent held herself out as entitled to practice law, and actually practiced law, when respondent knew that she was not an active member of the State Bar, and thereby committed an act of moral turpitude, dishonesty or corruption, in willful violation of Business and Professions Code, section 6106.

60. By using the debit card linked to her CTA to pay for personal expenses on more than 100 separate occasions, respondent deposited or commingled funds belonging to respondent into respondent's CTA, in willful violation of Rules of Professional Conduct, rule 4-100(A).

61. By misappropriating through gross negligence \$4,989.47 of the \$5,000 in advanced costs that Julissa Solano paid to respondent, respondent committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code section 6106.

FACTS SUPPORTING AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent committed 8 acts of misconduct in the three above-referenced matters. Respondent's multiple acts of misconduct constitute an aggravating circumstance pursuant to Standard 1.5(b).

FACTS SUPPORTING MITIGATING CIRCUMSTANCES.

No Prior Discipline: Although respondent's misconduct is serious, she is entitled to mitigation for having practiced law for approximately 11 years without discipline prior to engaging in the current misconduct. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49.)

Emotional/Physical Difficulties (Std. 1.6(d)): Between January 2014 and March 2015, respondent suffered from a series of serious health conditions. Respondent suffered a heart attack in January 2014, and had heart surgery in February 2014. During respondent's heart surgery, doctors found that respondent also suffered from breast cancer. Thereafter, respondent underwent multiple surgeries and chemotherapy related to her illness. As of March 2015, respondent was cancer free. Respondent's health condition caused a lapse in judgment and concentration which contributed to her poor decision making in engaging in the acts of misconduct at issue in these 3 matters. Respondent's health condition constitutes a mitigating circumstance pursuant to Standard 1.6(d).

Good Character (Std. 1.6(f)): Respondent provided the State Bar with 12 character reference letters from individuals within the legal (1) and general communities (11), all of whom were aware of the full extent of respondent's misconduct. The character reference from an attorney came to the State Bar unsolicited by respondent. The remaining 11 character reference letters came from a variety of individuals including: two RNs; Air Traffic Control Specialist; Apartment Manager; Director of a Non-profit; Office Manager; USPS worker; Commercial Trucker; Maintenance Supervisor; and family members. The character references attest to respondent's *pro bono* work, outreach to the extended community, and work with a women's support group. Respondent is entitled to mitigation for good character pursuant to Standard 1.6(f).

Recognition of Wrongdoing (Std. 1.6(g)): Respondent admitted to all of the misconduct alleged during the course of the investigations and proceedings in these 3 matters, refunded the illegal fee to Thibodeaux, and pre-emptively took and passed State Bar Ethics School and Client Trust

Accounting School. These acts demonstrate a recognition of wrongdoing. Respondent's recognition of wrongdoing constitutes a mitigating circumstance pursuant to Standard 1.6(g).

Restitution (Std. 1.6(j)): Respondent refunded the \$5,000 in advanced costs to her client, Julissa Solano, without the threat of any disciplinary action by the State Bar. In fact Julissa Solano was not aware of the misappropriation. Respondent's act of restitution prior to State Bar involvement constitutes a mitigating circumstance pursuant to Standard 1.6(j).

Pretrial Stipulation: Respondent is entitled to mitigation for entering into a full stipulation with the Office of Chief Trial Counsel prior to trial, thereby saving 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 committed multiple 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." (Std. 1.7(a).) The most severe sanction applicable to respondent's misconduct is found in Standard 2.11, which applies to respondent's violation of Business and Professions Code, section 6106, , and which provides that:

Disbarment or actual suspension is the presumed sanction for an act of moral turpitude, dishonesty, fraud, corruption, intentional or grossly negligent misrepresentation, or concealment of a material fact. The degree

of sanction depends on the magnitude of the misconduct; the extent to which the misconduct harmed or misled the victim, which may include the adjudicator; the impact on the administration of justice, if any; and the extent to which the misconduct related to the member's practice of law.

The acts of moral turpitude were directly related to respondent's practice of law. However, the timeframe was relatively short, restitution was paid prior to State Bar involvement and the harm appears to be minimal. Here, respondent's misconduct warrants a 90-day actual suspension. While respondent committed several other acts of misconduct including commingling and an illegal fee, a level of discipline above 90-days actual suspension is not warranted because respondent is entitled to substantial mitigation. Specifically, respondent is entitled to mitigation for no prior record of discipline, extreme emotional or physical difficulties, recognition of wrongdoing, restitution, for entering into a pre-trial stipulation, and good character. In contrast, respondent's misconduct is only aggravated by multiple acts of misconduct. Further, other than respondent's commingling in her CTA, respondent's misconduct occurred over a short time period (i.e. 9 weeks). It is worth noting that the Review Department has previously assigned no additional weight to violations of rule 4-100(A) when violations of grossly negligent misappropriation are found. (*See e.g., In the Matter of Sampson* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 119, 127).

A 90-day actual suspension is also supported by Standard 2.1(b), which applies to respondent's grossly negligent misappropriation, which provides that "[a]ctual suspension is the presumed sanction for misappropriation involving gross negligence." Here, respondent's misappropriation was grossly negligent because respondent did not take Solano's funds with the intent of keeping them permanently. Rather, respondent used her CTA as a personal checking account, and did not keep sufficient records to allow her to know which funds belonged to herself or to her clients. Respondent also refunded all of Solano's funds long before the issue of misappropriation was even raised. (*Edwards v. State Bar* (1990) 52 Cal.3d 28, 38; *In the Matter of Blum* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403, 409-411 [misappropriations in two client matters for not properly supervising CTA for nine months constituted moral turpitude by gross negligence].)

Brockway v. State Bar (1991) 53 Cal.3d 51, also supports a 90-day actual suspension in this matter. In *Brockway*, the Supreme Court ordered attorney Brockway actually suspended for 3 months for a grossly negligent misappropriation of \$500 in client funds. The Supreme Court found that respondent's misconduct was mitigated by no prior record of discipline, lack of client harm and good character, and aggravated by lack of candor at the disciplinary hearing and indifference.

Here, respondent's misconduct warrants the same level of discipline as attorney Brockway received (i.e. 90 days actual suspension). While respondent misappropriated a greater sum of money, and engaged in more acts of misconduct, respondent is entitled to substantially more mitigation than attorney Brockway received. For this reason, respondent's misconduct also warrants a 90-day actual suspension.

Balancing all of the appropriate factors, a 90-day actual suspension is consistent with Standards 2.1(b) and 2.11, and appropriate taking into consideration the facts and circumstances of this case.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed Respondent that as of June 21, 2016 the prosecution costs in these matters are \$ 9,826.67. 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 not receive MCLE credit for completion State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of:
DOLORES VICTOR

Case Number(s):
15-O-12422-PEM
[15-O-14051; 15-O-14556 [INV]]

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

JULY 7, 2016


LUCY ARMENDARIZ
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 July 7, 2016, 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
SAMUEL C. BELLICINI, LAWYER
1005 NORTHGATE DR # 240
SAN RAFAEL, CA 94903

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

ROBERT A. HENDERSON, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on July 7, 2016.



Mazie Yip
Case Administrator
State Bar Court