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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 St. San Francisco, CA 94105 (415) 538-2385</p> <p>Bar # 173205</p>	<p>Case Number(s): 15-O-14264-LMA 15-O-15022; 16-O-13274</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;">MAR 03 2017 <i>V.A.</i></p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>Counsel For Respondent</p> <p>Roy J. Fleischer 1611 S St., 2nd Floor Sacramento, CA 95811 (916) 446-4025</p> <p>Bar # 98167</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: TERESA FAYE BRISTOW</p> <p>Bar # 241075</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 29, 2005**.
- (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 **15** 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".

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- (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 from the effective date of the Supreme Court Order imposing discipline 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.
- (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.

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- (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 attachment to Stipulation at p. 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.
- (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. **See Attachment to Stipulation at p. 12.**
- (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. **See Attachment to Stipulation at p. 12.**

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- (9) **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's extraordinarily good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances:

Pretrial Stipulation - See Attachment to Stipulation at p. 12.

No Prior Discipline - See Attachment to Stipulation at p. 12.

D. Discipline:

- (1) **Stayed Suspension:**
- (a) 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) The above-referenced suspension is stayed.
- (2) **Probation:**
- Respondent must be placed on probation for a period of **one-year**, 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 **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.

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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.
- (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.

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- (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:**

2. Ferguson paid respondent \$750 in advanced fees for the family law matter.

3. On November 15, 2014, respondent substituted into the matter. A week later, respondent's health deteriorated and she went on medical leave. As of November 22, 2014, respondent ceased all work on Ferguson's matter and effectively abandoned Ferguson.

4. Subsequent to going on medical leave, respondent failed to keep Ferguson informed of her medical leave, what was happening in the matter and failed to complete the work.

5. On May 29, 2015, respondent's partner, on behalf of respondent, filed a Request for Order re: Modification of Spousal Support. The court set a hearing for July 6, 2015. The Request for Order was never served on the other side. Respondent's partner informed Ferguson of the hearing date by letter.

6. On May 31, 2015, respondent's partner closed the law firm. Neither respondent, nor her partner informed Ferguson that the firm had closed.

7. In June 2015, Ferguson attempted to telephone respondent at the firm telephone number, but it had been disconnected.

8. On July 6, 2015, Ferguson appeared for the hearing. There was no appearance by respondent, respondent's partner, the opposing party and the opposing party's counsel. Ferguson attempted to contact respondent, but was unable to do so. The court dropped the matter from the calendar. Ferguson was informed by the court that respondent was not practicing law at that time and that her partner had retired.

9. In February 2016, respondent refunded the \$750.

CONCLUSIONS OF LAW:

10. By failing to take any action on behalf of Ferguson after substituting into the case on November 15, 2014, until May 29, 2015, by failing to serve the Request for Modification on the opposing party and by failing to appear at the July 6, 2015 hearing, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

11. By failing to inform Ferguson that she was going on medical leave and that his case had not been worked on from November 22, 2014 through April 2015, by failing to inform Ferguson that the opposing party had not been served and that respondent would not appear at the July 6, 2015 hearing, respondent failed to keep a client reasonably informed of significant developments in a matter in which respondent had agreed to provide legal services in willful violation of Business and Professions Code, section 6068(m).

12. By effectively terminating representation of Ferguson, without notifying Ferguson and without taking steps to protect Ferguson's legal position, respondent failed upon termination of employment to take reasonable steps to avoid reasonably foreseeable prejudice to respondent's client, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

Case No. 15-O-15022 (Complainant: Tina Vallery)

FACTS:

13. On April 30, 2014, Tina Vallery ("Vallery") hired respondent to represent her in a family law matter.

14. On May 16, 2014, respondent filed a Petition for Dissolution of Marriage titled *IRMO Vallery*, Sacramento County Superior Court case no. 14FL02881. The Petition was not served on the opposing party as Vallery did not have a good address for her husband. Respondent explained to Vallery that service by publication was an option. Vallery chose to attempt to have the opposing party personally served by either a friend or family member.

15. On July 10, 2014, Vallery signed the Declaration of Disclosure. Respondent never served the opposing party with the Declaration of Disclosure, as she did not have a good address for the husband.

16. After July 10, 2014, respondent ceased working on the Vallery matter. Respondent relied on her law partner to take over the matter. Respondent did not inform Vallery that respondent would no longer be working on the matter. No further work was ever done on Vallery's matter.

17. Between August 9, 2014 and January 2015, Vallery made numerous telephonic and email inquiries to respondent asking for a status update on the matter. Respondent received these messages, but did not respond.

18. On November 22, 2014, respondent went out on medical leave. Respondent did not inform Vallery that she was on medical leave.

19. In February 2015, Vallery looked for new counsel.

20. At the end of May 2015, respondent's partner closed the law firm. Neither respondent, nor her partner informed Vallery that the firm had closed.

CONCLUSIONS OF LAW:

21. By failing to respond to Vallery's telephonic and email status inquiries between August 9, 2014 and January 2015, respondent wilfully failed to respond to reasonable status inquiries in a matter in which respondent had agreed to provide legal services, in wilful violation of Business and Professions Code, section 6068(m).

22. By failing to inform Vallery that respondent was going on medical leave, by failing to inform Vallery that respondent would not be working on the matter while on leave and by failing to inform Vallery that the firm had closed, respondent wilfully failed to keep a client informed of significant developments in a matter in which respondent had agreed to provide legal advice in wilful violation of Business and Professions Code, section 6068(m).

Case No. 16-O-13274 (Complainant: Neil Wong)

FACTS:

23. On May 22, 2013, Neil Wong ("Wong") hired respondent to represent him in *Wong v. Wong* Sacramento County Superior Court case no. 12FL01730 a family law matter.
24. On May 22, 2013, Wong's former wife filed a Request for Order seeking to set aside the Judgment in *Wong v. Wong* Sacramento County Superior Court case no. 12FL01730 on numerous grounds.
25. Wong wanted to modify the amount of child support payments to his ex in *Wong v. Wong* Sacramento County Superior Court case no. 12FL01730.
26. On June 14, 2013, respondent substituted into the family law matter.
27. Respondent initially performed for Wong in the modification of child support.
28. On June 18, 2013, respondent filed a Request for Order to modify child support.
29. On August 7, 2013, a Family Law Stipulation and Order was entered, modifying the child support to \$211 per month payable to Wong's ex-wife.
30. On August 7, 2013, the Request for Order seeking to set aside the Judgment in *Wong v. Wong* Sacramento County Superior Court case no. 12FL01730 was heard. No order was made at that time. The matter was referred for a long-cause hearing. The Mandatory Settlement Conference was set for November 14, 2013 and the Hearing was set for November 22, 2013.
31. On October 25, 2013, respondent filed a Pre-trial Statement.
32. On October 28, 2013, opposing counsel filed a Pre-trial Statement
33. On November 14, 2013, at the Mandatory Settlement Conference, the parties entered into a Stipulation and Order. The trial date of November 22, 2013, was vacated.
34. On April 23, 2014, respondent filed Findings and Order After Hearing Pursuant to Settlement Conference.
35. Beginning in May 2014 and continuing thereafter, respondent ceased working on the Wong family law matter.
36. In June 2014, respondent experienced medical issues, which caused her to reduce her work schedule. However, respondent failed to inform Wong and failed to substitute out of the case.
37. On September 24, 2014, respondent emailed Wong regarding the status of the case. The remaining issue was the valuation of a retirement account of the opposing party. Respondent advised Wong that they could either subpoena the records of the opposing party, or file a contempt action to force the opposing party to complete the valuation.

38. On September 25, 2014, respondent emailed opposing counsel regarding obtaining the valuation of the account. This was the last action respondent took on behalf of Wong.

39. As of September 26, 2014, respondent effectively abandoned the representation of Wong.

40. As a result of respondent's illness and reduced hours, the work for Wong was never completed.

41. On November 22, 2014, respondent went out on medical leave. Respondent did not inform Wong that she was on medical leave.

42. On December 8, 2014, Wong emailed requesting a status update on his case. Respondent received the email, but did not respond.

43. On December 8, 2014, Wong attempted to telephone respondent at her office, but the number was out of service.

44. On May 31, 2015, respondent's partner closed the law firm. Neither respondent, nor her partner informed Wong that the firm had closed.

45. On September 29, 2015, Wong received an emailed automatic reply from respondent with a new address.

46. On September 29, 2015, Wong received an emailed automatic reply from respondent's partner, informing Wong that the partner had permanently retired from the partnership, effective May 31, 2015.

47. On September 29, 2015, Wong emailed respondent asking about the status of his case. Wong also stated that he had been trying to reach respondent for over a year. Respondent received this email, but did not respond.

CONCLUSIONS OF LAW:

48. By failing to take any affirmative action on behalf of Wong to move the family law matter forward after the April 23, 2014 Order and by ceasing all efforts on behalf of Wong after September 25, 2014, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

49. By failing to respond to Wong's telephonic and email status inquiries between September 29, 2014 and September 29, 2015, respondent wilfully failed to respond to reasonable status inquiries in a matter in which respondent had agreed to provide legal services, in wilful violation of Business and Professions Code, section 6068(m).

50. By failing to inform Wong that respondent was going on medical leave, by failing to inform Wong that respondent would not be working on the matter while on leave and by failing to inform Wong that the firm had closed, respondent wilfully failed to keep a client informed of significant developments in a matter in which respondent had agreed to provide legal advice in wilful violation of Business and Professions Code, section 6068(m).

51. By taking no further action on Wong's behalf as of September 26, 2014, effectively terminating representation of Wong, without notifying Wong and without taking steps to protect Wong's legal position, respondent failed upon termination of employment to take reasonable steps to avoid reasonably foreseeable prejudice to respondent's client, in wilful violation of Rules of Professional Conduct, rule 3-700(A)(2).

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Wrongdoing (Std. 1.5(b)): Respondent's misconduct in three matters involved multiple acts of misconduct including failure to perform, failure to communicate and client abandonment.

MITIGATING CIRCUMSTANCES.

Good Faith (Std. 1.6(b)): Respondent in good faith relied on the representations made by her former law partner, that he would communicate with the clients and ensure that the work was performed timely.

Extreme Emotional, Physical, or Mental Difficulties and Disabilities (Std. 1.6(d)): Respondent has suffered from depression, anxiety, diabetes, high blood pressure, migraine headaches and recurring non-specific syncope, for many years. During the time period of the misconduct, respondent's mental and physical health deteriorated, causing her to change her medications and take a medical leave. The medical leave commenced in late 2014 and continued into September 2015. Since that time, respondent has been able to stabilize her mental and physical health, as attested to by her physician.

Pretrial Stipulation: By entering into this stipulation, respondent has acknowledged misconduct and is entitled to mitigation for recognition of wrongdoing and saving the State Bar significant resources and time. (*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]; *In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521 [where the attorney's stipulation to facts and culpability was held to be a mitigating circumstance].)

No Prior Discipline: Respondent has been in practice since December 29, 2005, with no prior discipline. Although her misconduct is serious, her eight years' of practice prior to committing the misconduct in these matters is a mitigating factor. (See *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41 [where mitigative credit given for discipline-free practice despite serious misconduct].)

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 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 found in standard 2.7 which states:

(b) Actual suspension is the presumed sanction for performance, communication, or withdrawal violations in multiple client matters, not demonstrating habitual disregard of client interests.

Respondent in the current matter has committed misconduct in three matters, including the abandonment of two clients, which would suggest an actual suspension under the applicable standard.

Turning to case law, the Supreme Court has said: "We have considered abandonment of clients and retention of unearned fees as serious misconduct warranting periods of actual suspension and in cases of habitual misconduct, disbarment. (See *Martin v. State Bar* (1978) 20 Cal.3d 717 [six instances of abandonment, one-year actual suspension]; *Lester v. State Bar* (1976) 17 Cal.3d 547 [four instances of abandonment, six months' actual suspension]; *Farnham v. State Bar* (1988) 47 Cal.3d 429 [seven instances of misconduct, with prior discipline, disbarment].)

In *Layton v. State Bar* (1990) 50 Cal.3d 889, the attorney received a 30 day actual suspension for abandoning an open estate for a period in excess of five years.

In *Bach v. State Bar* (1991) 52 Cal.3d 1201, the attorney received a 30 day actual for abandoning a family law matter for a period of two and a half years.

As in *Layton* and *Bach*, respondent has abandoned her clients. Although the time frame of the abandonment is shorter, there are more clients involved. Additionally in this matter the mitigation outweighs the aggravation. However, there is no reason to deviate from the guidance provided by the

Standard. On balance a similar level of discipline as in *Bach* and *Layton*, which still falls within the range of Standard 2.7(b) would be appropriate. An actual suspension of 30 days would adequately protect the public and maintain the high standards of the legal profession.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of February 13, 2017, the discipline costs in this matter are \$5,671. 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 MINIMUM CONTINUING LEGAL EDUCATION (“MCLE”) CREDIT

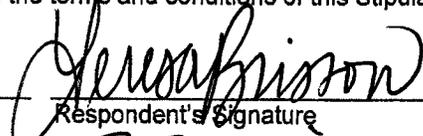
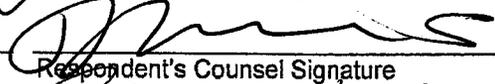
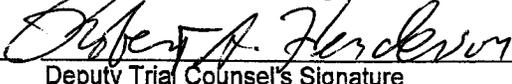
Respondent may not receive MCLE credit for completion of: State Bar Ethics School, State Bar Client Trust Accounting School, and/or any other educational course(s) to be ordered as a condition of reproof or suspension. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

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SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

<u>2/21/17</u> Date	<u></u> Respondent's Signature	<u>Teresa F. Bristow</u> Print Name
<u>2/21/17</u> Date	<u></u> Respondent's Counsel Signature	<u>Roy J. Fleischer</u> Print Name
<u>2/27/2017</u> Date	<u></u> Deputy Trial Counsel's Signature	<u>Robert A. Henderson</u> Print Name

(Do not write above this line.)

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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.)**

March 3, 2017
Date



LUCY ARMENDARIZ
Judge of the State Bar Court

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DECLARATION OF SERVICE BY MAIL

RE: BRISTOW
CASE NO.: 15-O-14264; 15-O-15022; 16-O-13274

I, the undersigned, over the age of eighteen (18) years, whose business address and place of employment is the State Bar of California, 180 Howard Street, San Francisco, California 94105, declare that I am not a party to the within action; that I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service; that in the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day; that I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit. That in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of San Francisco, on the date shown below, a true copy of the within

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

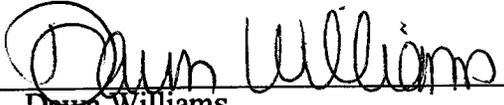
in a sealed envelope placed for collection and mailing at San Francisco, on the date shown below, addressed to:

Roy Joseph Fleischer
1611 S St Ste 200
Sacramento, CA 95811

in an inter-office mail facility regularly maintained by the State Bar of California addressed to:

N/A

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at San Francisco, California, on the date shown below.

DATED: February 27, 2017 SIGNED: 
Dawn Williams
Declarant

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on March 3, 2017, 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:

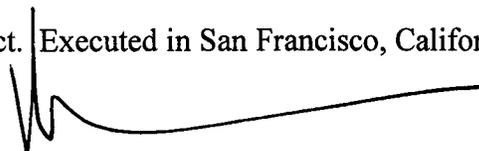
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

ROY JOSEPH FLEISCHER
1611 S ST STE 200
SACRAMENTO, CA 95811

- 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 March 3, 2017.



Vincent Au
Case Administrator
State Bar Court