


(Do not write above this line.)

State Bar Court of California  
Hearing Department

Los Angeles  
ACTUAL SUSPENSION **PUBLIC MATTER**

<p>Counsel for the State Bar</p> <p><b>Esther Fallas</b> Deputy Trial Counsel 845 S. Figueroa St. Los Angeles, CA 90017 (213) 765-1071</p> <p>Bar # 307348</p>	<p>Case Number(s): <b>17-O-04328-CV</b></p> <p>kwiktag® 241 071 986</p> 	<p>For Court use only</p> <p><b>FILED</b> <i>P.S.</i></p> <p><b>APR - 5 2019</b></p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>Counsel For Respondent</p> <p><b>Ellen Pansky</b> Pansky Markle Attorneys at Law 1010 Sycamore Ave, Suite 308 South Pasadena, CA 91030 (213) 626-7300</p> <p>Bar # 177688</p>	<p>Submitted to: <b>Settlement Judge</b></p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p><b>ACTUAL SUSPENSION</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: <b>SUZANNE FLOURNOY GOULDING</b></p> <p>Bar # 177830</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 **October 5, 1995**.
- (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 **19** 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."

IT  
14-19

(Do not write above this line.)

- (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. It is recommended that (check one option only):
- Costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. Unless the time for payment of discipline costs is extended pursuant to subdivision (c) of section 6086.10, costs assessed against a member who is actually suspended or disbarred must be paid as a condition of reinstatement or return to active status.
  - Costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. SELECT ONE of the costs must be paid with Respondent's membership fees for each of the following years:  
  
If Respondent fails to pay any installment as described above, or as may be modified in writing by the State Bar or the State Bar Court, the remaining balance will be 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.

57  
1-4-19

(Do not write above this line.)

- (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.
- (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 Respondent's misconduct.
- (10)  **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of Respondent's 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 15.**
- (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 [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 Respondent's 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 Respondent's 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 Respondent.
- (7)  **Good Faith:** Respondent acted with a good faith belief that was honestly held and objectively reasonable.

ST  
-14-19

(Do not write above this line.)

- (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 Respondent, such as illegal drug or substance abuse, and the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.
- (9)  **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond Respondent's control and which were directly responsible for the misconduct.
- (10)  **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in Respondent's 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 Respondent's 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:**

**No Prior Discipline, see page 15.**  
**Good Character, see page 15.**  
**Prefiling Stipulation, see page 16.**

**D. Recommended Discipline:**

- (1)  **Actual Suspension:**

Respondent is suspended from the practice of law for **one year**, the execution of that suspension is stayed, and Respondent is placed on probation for **one year** with the following conditions.

- Respondent must be suspended from the practice of law for the first **90 days** of the period of Respondent's probation.

- (2)  **Actual Suspension "And Until" Rehabilitation:**

Respondent is suspended from the practice of law for \_\_\_\_\_, the execution of that suspension is stayed, and Respondent is placed on probation for \_\_\_\_\_ with the following conditions.

- Respondent must be suspended from the practice of law for a minimum of the first \_\_\_\_\_ of Respondent's probation and until Respondent provides proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

- (3)  **Actual Suspension "And Until" Restitution (Single Payee) and Rehabilitation:**

Respondent is suspended from the practice of law for \_\_\_\_\_, the execution of that suspension is stayed, and Respondent is placed on probation for \_\_\_\_\_ with the following conditions.

UT  
-14-19







(Do not write above this line.)

compliance with this requirement, to the State Bar's Office of Probation in Los Angeles (Office of Probation) with Respondent's first quarterly report.

- (2)  **Comply with State Bar Act, Rules of Professional Conduct, and Probation Conditions:** Respondent must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all conditions of Respondent's probation.
- (3)  **Maintain Valid Official Membership Address and Other Required Contact Information:** Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must make certain that the State Bar Attorney Regulation and Consumer Resources Office (ARCR) has Respondent's current office address, email address, and telephone number. If Respondent does not maintain an office, Respondent must provide the mailing address, email address, and telephone number to be used for State Bar purposes. Respondent must report, in writing, any change in the above information to ARCR, within ten (10) days after such change, in the manner required by that office.
- (4)  **Meet and Cooperate with Office of Probation:** Within 15 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must schedule a meeting with Respondent's assigned probation case specialist to discuss the terms and conditions of Respondent's discipline and, within 30 days after the effective date of the court's order, must participate in such meeting. Unless otherwise instructed by the Office of Probation, Respondent may meet with the probation case specialist in person or by telephone. During the probation period, Respondent must promptly meet with representatives of the Office of Probation as requested by it and, subject to the assertion of applicable privileges, must fully, promptly, and truthfully answer any inquiries by it and provide to it any other information requested by it.
- (5)  **State Bar Court Retains Jurisdiction/Appear Before and Cooperate with State Bar Court:** During Respondent's probation period, the State Bar Court retains jurisdiction over Respondent to address issues concerning compliance with probation conditions. During this period, Respondent must appear before the State Bar Court as required by the court or by the Office of Probation after written notice mailed to Respondent's official membership address, as provided above. Subject to the assertion of applicable privileges, Respondent must fully, promptly, and truthfully answer any inquiries by the court and must provide any other information the court requests.
- (6)  **Quarterly and Final Reports:**
- a. **Deadlines for Reports.** Respondent must submit written quarterly reports to the Office of Probation no later than each January 10 (covering October 1 through December 31 of the prior year), April 10 (covering January 1 through March 31), July 10 (covering April 1 through June 30), and October 10 (covering July 1 through September 30) within the period of probation. If the first report would cover less than 30 days, that report must be submitted on the next quarter date and cover the extended deadline. In addition to all quarterly reports, Respondent must submit a final report no earlier than ten (10) days before the last day of the probation period and no later than the last day of the probation period.
- b. **Contents of Reports.** Respondent must answer, under penalty of perjury, all inquiries contained in the quarterly report form provided by the Office of Probation, including stating whether Respondent has complied with the State Bar Act and the Rules of Professional Conduct during the applicable quarter or period. All reports must be: (1) submitted on the form provided by the Office of Probation; (2) signed and dated after the completion of the period for which the report is being submitted (except for the final report); (3) filled out completely and signed under penalty of perjury; and (4) submitted to the Office of Probation on or before each report's due date.
- c. **Submission of Reports.** All reports must be submitted by: (1) fax or email to the Office of Probation; (2) personal delivery to the Office of Probation; (3) certified mail, return receipt requested, to the Office of Probation (postmarked on or before the due date); or (4) other tracked-service provider, such as Federal Express or United Parcel Service, etc. (physically delivered to such provider on or before the due date).

ST  
-11-19

**d. Proof of Compliance.** Respondent is directed to maintain proof of Respondent's compliance with the above requirements for each such report for a minimum of one year after either the period of probation or the period of Respondent's actual suspension has ended, whichever is longer. Respondent is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.

- (7)  **State Bar Ethics School:** Within one year after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must submit to the Office of Probation satisfactory evidence of completion of the State Bar Ethics School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and Respondent will not receive MCLE credit for attending this session. If Respondent provides satisfactory evidence of completion of the Ethics School after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.
- (8)  **State Bar Ethics School Not Recommended:** It is not recommended that Respondent be ordered to attend the State Bar Ethics School because
- (9)  **State Bar Client Trust Accounting School:** Within one year after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must submit to the Office of Probation satisfactory evidence of completion of the State Bar Client Trust Accounting School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and Respondent will not receive MCLE credit for attending this session. If Respondent provides satisfactory evidence of completion of the Client Trust Accounting School after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.
- (10)  **Minimum Continuing Legal Education (MCLE) Courses – California Legal Ethics [Alternative to State Bar Ethics School for Out-of-State Residents]:** Because Respondent resides outside of California, within \_\_\_\_\_ after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must either submit to the Office of Probation satisfactory evidence of completion of the State Bar Ethics School and passage of the test given at the end of that session or, in the alternative, complete \_\_\_\_\_ hours of California Minimum Continuing Legal Education-approved participatory activity in California legal ethics and provide proof of such completion to the Office of Probation. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for this activity. If Respondent provides satisfactory evidence of completion of the Ethics School or the hours of legal education described above, completed after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.
- (11)  **Criminal Probation:** Respondent must comply with all probation conditions imposed in the underlying criminal matter and must report such compliance under penalty of perjury in all quarterly and final reports submitted to the Office of Probation covering any portion of the period of the criminal probation. In each quarterly and final report, if Respondent has an assigned criminal probation officer, Respondent must provide the name and current contact information for that criminal probation officer. If the criminal probation was successfully completed during the period covered by a quarterly or final report, that fact must be reported by Respondent in such report and satisfactory evidence of such fact must be provided with it. If, at any time before or during the period of probation, Respondent's criminal probation is revoked, Respondent is sanctioned by the criminal court, or Respondent's status is otherwise changed due to any alleged violation of the criminal probation conditions by Respondent, Respondent must submit the criminal court records regarding any such action with Respondent's next quarterly or final report.
- (12)  **Minimum Continuing Legal Education (MCLE):** Within \_\_\_\_\_ after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must complete \_\_\_\_\_ hour(s) of California Minimum Continuing Legal Education-approved participatory activity in SELECT ONE \_\_\_\_\_ and must

IT  
-14-19



(Do not write above this line.)

provide proof of such completion to the Office of Probation. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for this activity. If Respondent provides satisfactory evidence of completion of the hours of legal education described above, completed after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.

- (13)  **Other:** Respondent must also comply with the following additional conditions of probation:
- (14)  **Proof of Compliance with Rule 9.20 Obligations:** Respondent is directed to maintain, for a minimum of one year after commencement of probation, proof of compliance with the Supreme Court's order that Respondent comply with the requirements of California Rules of Court, rule 9.20, subdivisions (a) and (c). Such proof must include: the names and addresses of all individuals and entities to whom Respondent sent notification pursuant to rule 9.20; a copy of each notification letter sent to each recipient; the original receipt or postal authority tracking document for each notification sent; the originals of all returned receipts and notifications of non-delivery; and a copy of the completed compliance affidavit filed by Respondent with the State Bar Court. Respondent is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.
- (15)  **The following conditions are attached hereto and incorporated:**
- Financial Conditions  Medical Conditions
- Substance Abuse Conditions

The period of probation will commence on the effective date of the Supreme Court order imposing discipline in this matter. At the expiration of the probation period, if Respondent has complied with all conditions of probation, the period of stayed suspension will be satisfied and that suspension will be terminated.

#### F. Other Requirements Negotiated by the Parties (Not Probation Conditions):

- (1)  **Multistate Professional Responsibility Examination Within One Year or During Period of Actual Suspension:** Respondent must take and pass the Multistate Professional Responsibility Examination administered by the National Conference of Bar Examiners within one year after the effective date of the Supreme Court order imposing discipline in this matter or during the period of Respondent's actual suspension, whichever is longer, and to provide satisfactory proof of such passage to the State Bar's Office of Probation within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).) If Respondent provides satisfactory evidence of the taking and passage of the above examination after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this requirement.
- (2)  **Multistate Professional Responsibility Examination Requirement Not Recommended:** It is not recommended that Respondent be ordered to take and pass the Multistate Professional Responsibility Examination because
- (3)  **California Rules of Court, Rule 9.20:** Respondent must comply with the requirements of California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order imposing discipline in this matter. Failure to do so may result in disbarment or suspension.

For purposes of compliance with rule 9.20(a), the operative date for identification of "clients being represented in pending matters" and others to be notified is the filing date of the Supreme Court order, not any later "effective" date of the order. (*Atheam v. State Bar* (1982) 32 Cal.3d 38, 45.) Further, Respondent is required to file a rule 9.20(c) affidavit even if Respondent has no clients to notify on the

(Do not write above this line.)

date the Supreme Court filed its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or contempt, an attorney's failure to comply with rule 9.20 is, inter alia, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)

- (4)  **California Rules of Court, Rule 9.20 – Conditional Requirement:** If Respondent remains suspended for 90 days or longer, Respondent must comply with the requirements of California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 days, respectively, after the effective date of the Supreme Court order imposing discipline in this matter. Failure to do so may result in disbarment or suspension.

For purposes of compliance with rule 9.20(a), the operative date for identification of "clients being represented in pending matters" and others to be notified is the filing date of the Supreme Court order, not any later "effective" date of the order. (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45.) Further, Respondent is required to file a rule 9.20(c) affidavit even if Respondent has no clients to notify on the date the Supreme Court filed its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or contempt, an attorney's failure to comply with rule 9.20 is, inter alia, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)

- (5)  **California Rules of Court, Rule 9.20, Requirement Not Recommended:** It is not recommended that Respondent be ordered to comply with the requirements of California Rules of Court, rule 9.20, because
- (6)  **Other Requirements:** It is further recommended that Respondent be ordered to comply with the following additional requirements:

ST  
10-19



(Do not write above this line.)

In the Matter of: SUZANNE FLOURNOY GOULDING	Case Number(s): 17-O-04328-CV
--	----------------------------------

### Financial Conditions

(1)  **Restitution (Single Payee)**

SELECT ONE /Reproval Conditions Period, Respondent must make restitution in the amount of \$ , plus 10 percent interest per year from , to or such other recipient as may be designated by the Office of Probation or the State Bar Court (or reimburse the Client Security Fund to the extent of any payment from the Fund to such payee in accordance with Business and Professions Code section 6140.5) and must furnish satisfactory proof of restitution to the Office of Probation. [Such restitution may be made by partial payments or by a single lump sum payment during the period specified above.]

(2)  **Installment Restitution Payments (Single Payee)**

In addition to the above deadline for completing restitution and for as long as the full amount of restitution remains unsatisfied, Respondent must make installment payments according to the following payment schedule:

Respondent must make SELECT ONE payments in the amount of \$ to . The obligation to make such payments will commence days after the effective date of the SELECT ONE order imposing discipline in this matter. Such payments will be due on the day of each calendar SELECT ONE thereafter and be deemed delinquent if not submitted to such payee, or such other recipient as may be designated by the Office of Probation or the State Bar Court, within ten (10) days thereafter.

With each quarterly and final report, or as otherwise directed by the Office of Probation, Respondent must provide satisfactory proof of such installment payments to the Office of Probation.

(3)  **Restitution (Multiple Payees)**

SELECT ONE /Reproval Conditions Period, Respondent must make restitution, including the principal amount plus 10 percent interest per year (and furnish satisfactory proof of such restitution to the Office of Probation), to each of the following payees or such other recipient as may be designated by the Office of Probation or the State Bar Court (or reimburse the Client Security Fund to the extent of any payment from the Fund to such payee in accordance with Business and Professions Code section 6140.5):

Payee	Principal Amount	Interest Accrues From

ST  
5-14-19

(4)  **Installment Restitution Payments (Multiple Payees)**

In addition to the above deadline for completing restitution, Respondent must make installment payments of restitution according to the following schedule:

<i>Payee</i>	<i>Minimum Payment Amount</i>

Respondent must commence making such payments within \_\_\_\_\_ days after the effective date of the SELECT ONE \_\_\_\_\_ order imposing discipline in this matter. Such payments will be due on the \_\_\_\_\_ day of each calendar SELECT ONE thereafter and be deemed delinquent if not submitted to such payee, or such other recipient as may be designated by the Office of Probation or the State Bar Court, within ten (10) days thereafter. The obligation to make installment payments to a particular payee will terminate when the full amount of restitution owed to that payee, including accrued interest, has been paid.

With each quarterly and final report, or as otherwise directed by the Office of Probation, Respondent must provide satisfactory proof of such installment payments to the Office of Probation.

(5)  **Reporting re Proper Handling of Entrusted Client Funds, Property, or Securities**

Respondent must comply with the following reporting requirements:

- a. If Respondent possessed client funds, property, or securities at any time during the period covered by a required quarterly or final report, Respondent must submit with the report for that period a statement made by Respondent under penalty of perjury that:
  - i. Respondent handled all such client funds, property, and/or securities in compliance with rule 4-100 of the Rules of Professional Conduct; and
  - ii. Respondent complied with the "Trust Account Record Keeping Standards" adopted by the State Bar Board of Trustees, pursuant to rule 4-100(C) of the Rules of Professional Conduct.
- b. If Respondent did not possess any client funds, property, or securities during the entire period covered by a quarterly or final report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period.

(6)  **Reporting re Proper Handling of Entrusted Client Funds, Property, or Securities (Accountant certification – 1st Report)**

Respondent must comply with the following reporting requirements:

- a. If Respondent possessed client funds, property, or securities at any time during the period covered by a required quarterly or final report, Respondent must submit with the report for that period a statement that:

π  
1-14-19

(Do not write above this line.)

- i. Respondent handled all such client funds, property, and/or securities in compliance with rule 4-100 of the Rules of Professional Conduct; and
- ii. Respondent complied with the "Trust Account Record Keeping Standards" adopted by the State Bar Board of Trustees, pursuant to rule 4-100(C) of the Rules of Professional Conduct.

For the first period for which such statement is required, the statement must be from a certified public accountant or other financial professional approved by the Office of Probation. For all subsequent periods for which such statement is required, the statement may be made by Respondent under penalty of perjury.

- b. If Respondent did not possess any client funds, property, or securities during the entire period covered by a quarterly or final report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period.

**(7)  Other: Reporting re Proper Handling of Entrusted Client Funds, Property, or Securities (Accountant certification - 1st report)**

Respondent must comply with the following reporting requirements:

- a. If Respondent possessed client funds, property, or securities at any time during the period covered by a required quarterly or final report, Respondent must submit with the report for that period a statement that:
  - i. Respondent handled all such client funds, property, and/or securities in compliance with rule of the Rules of Professional Conduct; and
  - ii. Respondent complied with the "Trust Account Record Keeping Standards" adopted by the State Bar Board of Trustees, pursuant to rule 1.15 of the Rules of Professional Conduct.

For the first period for which such statement is required, the statement must be from a certified public accountant or other financial professional approved by the Office of Probation. For all subsequent periods for which such statement is required, the statement may be made by Respondent under penalty of perjury.

- b. If Respondent did not possess any client funds, property, or securities during the entire period covered by a quarterly or final report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period.

05  
5-14-19

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

IN THE MATTER OF: SUZANNE FLOURNOY GOULDING

CASE NUMBER: 17-O-04328-CV

**FACTS AND CONCLUSIONS OF LAW.**

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and/or former Rules of Professional Conduct.

Case No. 17-O-04328 (State Bar Investigation)

FACTS:

1. Between January 2016 and March 2018, respondent tasked her office staff to maintain her client trust account records for her client trust account record at Bank of America, account number xxxxx2633 ("CTA"). However, respondent did not examine these records and did not confirm the accuracy of those records. As a result, she did not discover or correct a January 2016 accounting error until July 11, 2018, more than two years after the error and several months after learning of the State Bar's investigation of this matter.
2. On September 30, 2016, R.G.S. retained respondent to represent him in his wrongful death claim for the death of his son, F.G., against a third-party. Mercury Insurance was the liability insurer for that third party.
3. On November 23, 2016, Mercury Insurance issued a \$25,000 settlement check payable to respondent and R.G.S., the latter as the sole and rightful heir of F.G.
4. On December 2, 2016, respondent deposited the \$25,000 settlement check in her CTA, which raised respondent's CTA balance to \$27,776.14.
5. On December 9, 2016, respondent issued a check for \$9,195.33 to herself from her CTA for attorney's fees and costs associated with the wrongful death claim. R.G.S.'s portion of the settlement funds as of December 9, 2016, following respondent's withdrawal, was \$15,804.67. However, after respondent's withdrawal of \$9,195.33, respondent's CTA balance was just \$10,871.94. After additional withdrawals between December 10, 2016 and December 21, 2016, respondent's CTA balance on December 21, 2016 was just \$10,343.20, which was \$5,461.47 lower than the \$15,804.67 her duties required her to maintain.
6. R.G.S. passed away in April 2017.
7. On July 11, 2018, respondent added funds to her CTA to restore the full \$15,804.67 of R.G.S.'s funds, and she has maintained R.G.S.'s funds in her CTA since that date, pending identification of all heirs to R.G.S.'s estate.

T  
-14-19

## CONCLUSIONS OF LAW:

8. By failing to maintain a balance of \$15,804.67 on behalf of R.G.S. in respondent's client trust account between December 9, 2016 and July 11, 2018, respondent failed to maintain client funds in trust, in willful violation of former Rules of Professional Conduct, rule 4-100(A).

9. By removing \$5,461.47 of R.G.S.'s funds from her CTA without R.G.S.'s permission, respondent misappropriated client funds with gross negligence, an act involving moral turpitude, dishonesty or corruption, in willful violation of Business and Professions Code, section 6106.

10. By failing to maintain accurate and complete records regarding her client trust account between January 2016 and July 11, 2018, and for R.G.S.'s funds in her CTA between December 2, 2016 and July 11, 2018, respondent failed to maintain complete records of all funds of a client coming into the possession of the member or law firm, in willful violation of former Rules of Professional Conduct, rule 4-100(B)(3).

## AGGRAVATING CIRCUMSTANCES.

**Multiple Acts (Std. 1.5(b)):** By failing to maintain a balance of \$15,804.67 on behalf of R.G.S. in respondent's client trust account, misappropriating client funds and failing to maintain the required records regarding client funds held in her CTA, respondent engaged in multiple acts of misconduct. Respondent's multiple acts of misconduct are an aggravating circumstance.

## MITIGATING CIRCUMSTANCES.

**No Prior Record of Discipline:** Respondent was admitted to the State Bar of California on October 5, 1995, and she has no prior record of discipline. Respondent's approximately 20 years of discipline free practice prior to her misconduct is a highly significant mitigating factor. (See *Friedman v. State Bar* (1990) 51 Cal.3d 235, 245 [attorney's practice of law for over 20 years considered highly significant].)

**Pretrial Stipulation:** Respondent is entitled to mitigation for entering into a dispositive, pretrial stipulation as to facts and conclusions of law, thereby preserving State Bar Court time and resources and both acknowledging and accepting responsibility for her misconduct. (See *Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where the attorney received mitigating credit for entering into a stipulation as to facts and culpability].)

**Good Character:** Respondent provided seven character reference letters from both the legal and general communities. The individuals were aware of respondent's misconduct. Five of the individuals were respondent's former clients and former colleagues. The individuals described respondent as having integrity, being honest and professional. The former clients attested that respondent was honest, professional, and stated that respondent communicated with them and kept them informed about their case, and they would recommend respondent as an attorney to friends and family. One of the individuals attested that she has done many community service projects with respondent in connection with their church. She attested that she has recommended respondent's services to her family members, and trusts respondent. (See *Porter v. State Bar* (1990) 52 Cal.3d 518, 529 [where evidence of good character warranted lesser discipline].)



Attorneys drafted the remaining two letters. Both of the attorneys were aware of respondent's misconduct. One attorney who has known respondent for over 12 years, described respondent as respectful, truthful, dedicated and a zealous advocate for her clients. That same attorney stated that respondent influenced her decision to pursue a legal career. The other attorney described respondent as professional, and stated they had first-hand knowledge that respondent routinely reduces her fees for her clients. (See *Porter v. State Bar* (1990) 52 Cal.3d 518, 529 [where evidence of good character warranted lesser discipline].)

#### **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).)

Standard 1.7(a) states, "If a member commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed." In the present matter, the most serious standard which is applicable in this case is 2.1(b), the applicable standard for respondent's violations of Business and Professions Code, section 6106. 2.1(b) provides that actual suspension is the presumed sanction for misappropriation involving gross negligence.

In the current matter, from December 9, 2016 to the present, respondent should have maintained \$15,804.67 of R.G.S.'s client funds, but on December 21, 2016, respondent's CTA had a balance of just \$10,343.20, a difference of \$5,461.47. Thus, respondent misappropriated at least \$5,461.47 of R.G.S.'s client funds. Additionally, respondent failed to maintain complete records of all of R.G.S.'s funds from December 2, 2016 to July 11, 2018, and failed to maintain the required records for her client trust account between January 2016 and July 11, 2018.



To determine the appropriate level of discipline, we must also consider the aggravating and mitigating circumstances. In aggravation, respondent committed multiple acts of misconduct. In mitigation, respondent's 20 years of discipline-free practice prior to misconduct is a highly significant mitigating factor. Respondent's evidence of good character is mitigating, and she is entitled to mitigation because she enters into a pretrial stipulation.

In *Guzzetta v. State Bar* (1987) 43 Cal.3d 962, the attorney committed misconduct in two matters. In the first matter, the attorney made unauthorized withdrawals from his client trust account, failed to maintain sufficient funds in the CTA, failed to maintain adequate records, failed to account for trust funds, and failed to make prompt payment of funds. In the second matter, the attorney failed to perform competently. In aggravation, the attorney committed multiple acts of misconduct, while in mitigation, the attorney had six years of discipline-free practice and provided character testimony. The Supreme Court imposed discipline that included six months of actual suspension.

In *In the Matter of Ward* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 47, the attorney misappropriated \$12,000 in one client matter. The attorney also failed to communicate and perform in another client matter. The Review Dept. concluded that the attorney was grossly negligent, but not dishonest, in the misappropriation of funds. In aggravation, the attorney committed multiple acts of misconduct and caused significant harm to his clients. In mitigation, the attorney was admitted in multiple states and had 21 years of discipline-free practice. In mitigation, the attorney had 13 character witnesses. The Review Department relied on a standards-based analysis and found the appropriate level of discipline was three years' stayed suspension, three-years' probation and 90-days actual suspension.

Here, respondent misappropriated \$5,461.47 of R.G.S.'s client funds from her CTA. Unlike *Guzzetta*, respondent committed misconduct in one client matter, not two, and respondent did not fail to perform. Respondent has more compelling mitigation as well, including approximately 20 years of discipline free practice prior to misconduct and a pretrial dispositive stipulation. Thus, the six-month actual suspension in *Guzzetta* is too severe in comparison. Similar to *Ward*, respondent misappropriated client funds. Unlike *Ward*, which involved two client matters and caused significant client harm, respondent's misconduct involved one client matter and did not cause significant client harm. Additionally, *Ward* also failed to communicate and failed to perform. Respondent's misconduct is distinguishable from *Ward* in that respondent failed to properly review the required records created by her office staff and required approximately 19 months between December 9, 2016 and July 11, 2018 to add funds to her CTA to restore the full \$15,804.67 of R.G.S.'s funds to respondent's CTA. However, the most significant parallel here, in terms of discipline, is that as in *Ward*, respondent's misconduct appears consistent with gross negligence.

Based on the misconduct, the aggravating and mitigating circumstances, the relevant standard and prior cases, the appropriate level of discipline here is a one-year stayed suspension, one-year probation with conditions including a 90-day actual suspension and both attending State Bar Ethics School and passing the examination at the end of the session. CTA school is not recommended because respondent attended CTA school on February 7, 2019. Respondent must comply with rule 9.20 of the California Rules of Court, and she must both take and pass the Multistate Professional Responsibility Examination. This level of discipline is consistent with the Standards, prior cases, and the purposes of discipline, which include protection of the public, the courts, and the legal profession.

Additionally, respondent must employ a certified public accountant to certify on respondent's first quarterly report to the Office of Probation that respondent handled all such client funds, property, and/or securities of all clients in compliance with rule 1.15 of the Rules of Professional Conduct and in

compliance with the "Trust Account Record Keeping Standards" adopted by the State Bar Board of Trustees, pursuant to rule 1.15(c) of the Rules of Professional Conduct. Respondent herself must make this certification in all remaining quarterly probation reports after the initial report.

**COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of March 12, 2019, the discipline costs in this matter are \$3,857. 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. (Rules Proc. of State Bar, rule 3201.)


NT  
1-14-19

(Do not write above this line.)

In the Matter of: SUZANNE FLOURNOY GOULDING	Case Number(s): 17-O-04328
--	-------------------------------

**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>3/14/19</u> Date	<u></u> Respondent's Signature	<u>Suzanne Flourney Goulding</u> Print Name
<u>3/14/19</u> Date	<u></u> Respondent's Counsel Signature	<u>Ellen Pansky</u> Print Name
<u>3/14/19</u> Date	<u></u> Deputy Trial Counsel's Signature	<u>Esther Fallas</u> Print Name

(Do not write above this line.)

In the Matter of: SUZANNE FLOURNOY GOULDING	Case Number(s): 17-O-04328-CV
--	----------------------------------

### 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.

1. In the caption on page 1 of the Stipulation, under Counsel for Respondent, "177688" is deleted, and in its place is inserted "77688".
2. On page 4 of the Stipulation, under "Additional mitigating circumstances:," "Prefiling Stipulation," is deleted, and in its place is inserted "Pretrial Stipulation." In addition, "16" is deleted, and in its place is inserted "15".
3. On page 13 of the Stipulation, at paragraph (7)a.i., line 1, "1.15" is inserted after "rule".

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 Rules Proc. of State Bar, rule 5.58(E) & (F).) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after the filed date of the Supreme Court order. (See Cal. Rules of Court, rule 9.18(a).)**

April 4, 2019  
Date

Rebecca Meyer Rosenberg  
REBECCA MEYER ROSENBERG, JUDGE PRO TEM  
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 Court Specialist 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 April 5, 2019, 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:

Ellen Pansky  
Pansky Markle Attorneys at Law  
1010 Sycamore Ave Unit 308  
S Pasadena, CA 91030-6139

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

Esther Fallas, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on April 5, 2019.



---

Paul Songco  
Court Specialist  
State Bar Court