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THE STATE BAR COURT
HEARING DEPARTMENT - SAN FRANCISCO

In the Matter of
MAUREEN R. KALLINS,
Member No. 95038,
A Member of the State Bar.

Case No. 97-O-15422-JMR

DECISION

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I. INTRODUCTION

This disciplinary case involves an attorney who had repeatedly crossed the line from zealous advocacy to contemptuous disrespect in the courtroom and who had failed to return unearned fees of \$21,500 to clients.

Respondent **MAUREEN R. KALLINS** is charged with multiple acts of misconduct in nine client matters. The charged misconduct includes (1) failing to return unearned fees; (2) entering into an agreement for or collecting an unconscionable fee; (3) failing to communicate; (4) failing to perform services competently; (5) failing to maintain respect for the courts; (6) misleading the court; (7) committing an act of moral turpitude; and (8) failing to report judicial sanctions.

This court finds, by clear and convincing evidence, that Respondent is culpable of 14 of the 18 charged acts of misconduct. In view of Respondent's misconduct and the evidence in aggravation and mitigation, the court recommends, among other things, that Respondent be suspended from the practice of law for two years, that execution of suspension be stayed, and that she be placed on probation for three years with conditions, including an actual suspension of two years from the practice of law and until she makes restitution and until she has shown proof satisfactory to the State Bar Court of her rehabilitation, fitness to practice, and learning and ability in the general law

1 pursuant to standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct.

2 **II. PERTINENT PROCEDURAL HISTORY**

3 The Office of the Chief Trial Counsel of the State Bar of California (State Bar) initiated this
4 proceeding by filing a 19-count Notice of Disciplinary Charges (NDC) on July 7, 2003. After the
5 court granted Respondent's motion for late filing, Respondent filed a response to the NDC on
6 October 7, 2003.

7 On May 14, 2004, the court granted the State Bar's motion to amend the NDC, dismissing
8 count 16 (alleging a violation of Business and Professions Code section 6103) and amending the
9 alleged facts regarding the refund of attorney fees in the Foster matter.

10 A six-day trial was held on April 6-8 and 13-14, and May 14, 2004. The State Bar was
11 represented in this proceeding by Deputy Trial Counsel Robin B. Haffner. Attorney Charles M.
12 Gretsche represented Respondent.

13 The court took this proceeding under submission on September 10, 2004, after the parties had
14 filed closing trial briefs and a rebuttal brief.

15 **III. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

16 The following findings of fact are based on the parties' partial stipulation of facts, the
17 evidence and testimony introduced at this proceeding, and the application of collateral estoppel.

18 **A. Jurisdiction**

19 Respondent was admitted to the practice of law in California on December 16, 1980, and has
20 been a member of the State Bar of California at all times since that date.

21 **B. The Maldonado Matter**

22 On November 21, 1997, Miguel Maldonado employed Respondent to represent him in a
23 criminal matter and paid her \$10,000 as advanced attorney fees.

24 On January 13, 1998, Maldonado's spouse, Maria, spoke with Respondent regarding
25 Maldonado's matter. Respondent requested more money to complete the performance of her
26 services. A discussion ensued regarding the extent of Respondent's accomplishments to date.
27 Dissatisfied with Respondent, Maria then discharged Respondent, instructing her not to perform any
28 further work on the matter.

1 On the following day, Maria sent a follow-up letter to Respondent, confirming Respondent's
2 termination of employment and requesting an accounting and a refund of unearned fees. She also
3 requested the return of documents. Maria enclosed in the mailing a copy of an executed power of
4 attorney, which authorized her to act on Maldonado's behalf.

5 On March 21, 1998, two months later, Maria received the requested documents from
6 Respondent and a letter stating that an accounting was forthcoming.

7 In April 1998, Maria requested on three separate occasions the overdue accounting, but
8 Respondent did not respond to her letters.

9 Finally, on May 11, 1998, Respondent wrote to Maria, indicating that she would "forward
10 a check for the balance due [her] as soon as possible." (State Bar exhibit 9.) Respondent enclosed
11 an accounting of monies received and time spent in the Maldonado matter, indicating that a balance
12 of \$4,956 was due Maldonado. However, Respondent never paid Maria.

13 Between July 1998 and January 2000, Maria requested the unearned fees of \$4,956 at least
14 seven times but received no response from Respondent.

15 On February 11, 2000, in response to the State Bar investigator's letter, Respondent admitted
16 that she owed money to Maldonado but that she was having financial difficulties. She anticipated
17 refunding Maria \$1,000 each month until the balance was paid. (State Bar exhibit 13.)

18 To date, Maria has not received any portion of the \$4,956 of unearned fees from Respondent.

19 ***1. Count 1: Failure to Refund Unearned Fees (Rule 3-700(D)(2) of the Rules of***
20 ***Professional Conduct)***¹

21 Rule 3-700(D)(2) requires an attorney whose employment has terminated to refund promptly
22 any part of a fee paid in advance that has not been earned.

23 When Maria terminated Respondent's employment in January 1998, Respondent should have
24 promptly refunded the unearned fees of \$4,956. She did not do so.

25 While Respondent centers her contentions on certain substantive but irrelevant issues of the
26 Maldonado case, she does not dispute that she owes money to her client. She admits that "[t]here
27

28 ¹References to rules are to the current Rules of Professional Conduct.

1 nevertheless remains a balance due to him on the arbitration which is unpaid because Respondent
2 has had no discretionary income with which to pay him.” (Respondent’s Closing Argument, at p.
3 7:13-15.) Therefore, because Respondent has failed to refund any portion of the unearned fees of
4 \$4,956 to Maldonado or Maria, she has wilfully violated rule 3-700(D)(2) in count 1.

5 **C. The Chung Matter**

6 In April 1998, Melinda Chung employed Respondent to represent her in a criminal matter
7 and paid her \$5,000 as advanced attorney fees.

8 At a May 1998 court hearing, Chung was referred to pretrial diversion. In June 1998, the
9 court granted her enrollment to the San Francisco Pretrial Diversion Project and suspended the
10 criminal proceedings against her. On September 11, 1998, the charge against Chung was dismissed
11 after she had successfully completed the diversion program.

12 In September 1998, Chung spoke with Respondent and inquired about a refund of any
13 unearned fees. Respondent told Chung that she would send her an accounting and a refund. Since
14 Respondent sent neither, Chung again requested an accounting and a refund of the unearned fees in
15 December 1998 and February 1999. In June 1999, Chung complained to the State Bar.

16 Finally, in February 2000, after 18 months, Respondent refunded \$1,050 to Chung, provided
17 an accounting and apologized for the lateness.

18 **1. Count 2: Failure to Refund Unearned Fees (Rule 3-700(D)(2))**

19 Respondent argues that the delayed payment was excused by her office move, staff changes
20 and lack of funds. These reasons do not justify Respondent’s inaction.

21 Chung, an aggrieved client, disputes the charges of \$3,950 as unreasonable. While her
22 dispute is properly the subject of fee arbitration, it does not belong in the disciplinary system. This
23 court “does not sit in disciplinary matters as a collection board for clients aggrieved over fee
24 matters.... The administration of attorney discipline ... is independent of any remedy that an
25 aggrieved client may pursue.” (*Bach v. State Bar* (1991) 52 Cal.3d 1201, 127; Bus. & Prof. Code,
26 § 6200 et seq.) Thus, the issue of whether the fees of \$3,950 charged in the Chung matter were
27 reasonable is not within this court’s consideration. There is no clear and convincing evidence that
28 Respondent’s accounting was inaccurate.

1 Nevertheless, Respondent's delay of 18 months in refunding unearned fees to her client
2 clearly and convincingly violated rule 3-700(D)(2) in count 2.

3 **D. The Session Matter**

4 On May 24, 1999, Derick and Sabrina Session hired the Kallins-Gretsch Law Firm to
5 represent Derick in two criminal matters for a \$10,000 fee. The legal services included *promptly*
6 obtaining a trial continuance and severance of Derick's felony cases. Sabrina paid Respondent
7 \$3,000 as part of the advanced attorney fees. Sabrina was not told that Respondent would not go to
8 court until the \$10,000 fee was paid in full.

9 Respondent did not file a request for continuance, sever the cases, or appear in court on
10 behalf of Derick. In fact, Respondent provided no services of value to Derick.

11 On June 19, 1999, Sabrina met with attorney Charles M. Gretsch, Respondent's spouse, and
12 was told to pay an additional \$1,000. Sabrina told attorney Gretsch that she did not have the money,
13 that she no longer wanted the law firm to represent Derick and that she wanted the entire refund.
14 Attorney Gretsch denied her request for the refund.

15 To date, Respondent has not refunded to Sabrina any portion of the \$3,000.

16 **1. Count 3: Failure to Refund Unearned Fees (Rule 3-700(D)(2))**

17 Respondent testified that she owes Sabrina the money but does not have the funds to repay
18 her. At the same time, she also admits that Derick "apparently could not afford the fee he agreed to
19 pay and got no benefit from what was paid because he defaulted on his agreement.... Respondent
20 does not dispute the refund." (Respondent's Closing Argument, at p. 9:18-10.)

21 The court finds Respondent's failure to refund promptly the \$3,000 paid in advance that had
22 not been earned when her employment was terminated in June 1999 clearly and convincingly
23 violated rule 3-700(D)(2) in count 3.

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1 2. **Count 4: Unconscionable Fee (Rule 4-200(A))²**

2 Rule 4-200(A) prohibits an attorney from entering into an illegal or unconscionable fee
3 agreement. Under rule 4-200(B), unconscionability of a fee is determined on the basis of all the facts
4 and circumstances existing *at the time the agreement is entered into* except where the parties
5 contemplate that the fee will be affected by later events, not when it is sought to be enforced.

6 “[I]n general, the negotiation of a fee agreement is an arm’s-length transaction.” (*Ramirez*
7 *v. Sturdevant* (1994) 21 Cal.App.4th 904, 913.) However, the right to practice law “is not a license
8 to mulct the unfortunate.” (*Recht v. State Bar* (1933) 218 Cal. 352, 355.) Fees are not unethical or
9 prohibited “simply because they are substantial in amount.” (*Baron v. Mare* (1975) 47 Cal.App.3d
10 304, 311.) “The test is whether the fee is ‘so exorbitant and wholly disproportionate to the services
11 performed as to shock the conscience.’” (*Bushman v. State Bar* (1974) 11 Cal.3d 558, 563.)

12 Unconscionable fees typically involve an element of fraud or overreaching by the attorney
13 that effectively constitutes an appropriation of the client’s funds under the guise of being fees.
14 (*Warner v. State Bar* (1983) 34 Cal.3d 36, 43.)

15 Here, Respondent entered into an agreement with the Sessions to pay \$10,000 for legal
16 services that never materialized. Because Sabrina paid Respondent only part of the required attorney
17 fee, Respondent refused to perform the services until she was fully paid. However, the \$10,000 fee
18 agreed at the time of the contract is not exorbitant or disproportionate to the value of the legal
19 services had they been performed. The fee does not “shock the conscience.” It may have been
20 unreasonable but not unconscionable. The fundamental misconduct is not the amount that was
21 charged or collected but Respondent’s failure to perform the services and return the unearned fees.

22 Therefore, there is no clear and convincing evidence that Respondent is culpable of charging
23 or collecting an unconscionable fee in violation of rule 4-200(A) in count 4.

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26 ²The State Bar incorrectly alleged a violation of rule 4-200(B) in counts 4, 6, and 10,
27 which defines the factors to be considered in determining the conscionability of a fee. The
28 correct charge should have been rule 4-200(A). The error is inconsequential since Respondent
had adequate notice of the charge under rule 4-200(A).

1 **E. The Foster Matter**

2 Respondent previously represented Karl James Foster in a criminal appeal matter, which was
3 denied on July 29, 1998. Foster's sisters, Gaynell Carter-Mays and Tiffany Harris-Sutton³
4 ("sisters"), met with Respondent on September 8, 1998, and requested Respondent to prepare a writ
5 of habeas corpus for Foster. The parties agreed to pay the attorney fee of \$25,000 over the course
6 of the year, with the last payment due September 1999.

7 Between September 1998 and June 1999, the sisters made five installment payments to
8 Respondent, totaling \$18,500. In December 1998, they were told that attorney Gretsch would be
9 helping with the matter and that he would visit Foster in prison.

10 Between January and March 1999, the sisters tried on several occasions to contact
11 Respondent and attorney Gretsch regarding the status of the writ. But neither Respondent nor
12 attorney Gretsch returned their calls.

13 In March 1999, attorney Gretsch informed the sisters that the writ was put on hold because
14 of his and Respondent's busy litigation schedule but that it would be a priority soon. In the next
15 three months, the sisters left repeated telephone messages concerning the case status, but received
16 no response from Respondent.

17 In June 1999, the sisters left a message, informing Respondent that they would not be making
18 additional payment until they received a status report on the writ. They soon met with Respondent
19 and complained about their dissatisfaction of her lack of communication and lack of work in the
20 matter. Respondent promised them that attorney Gretsch would soon interview Foster and that she
21 needed their June payment. They obliged and paid her \$5,000, for a total payment in fees of
22 \$18,500.

23 On July 28, 1999, the sisters told attorney Gretsch that they were discharging Respondent as
24 Foster's attorney, which they confirmed with a letter dated August 5, 1999. In the letter, they also
25 requested an accounting, the client files and the unearned fees. On August 8, 1999, Foster also sent
26 a letter to Respondent confirming the same.

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28 ³Tiffany Harris-Sutton is now an attorney.

1 On September 14, 1999, the sisters again requested the files, an accounting and the fees.
2 Three days later, they received the client files from attorney Gretsch but did not receive an
3 accounting or any portion of the unearned fees.

4 Again, in October 1999, the sisters wrote to Respondent requesting an accounting and a
5 refund of unearned fees. In the next two months, the sisters left numerous telephone messages for
6 Respondent but did not receive any response.

7 On November 11, 1999, Respondent told the sisters that she did not have \$18,500 to refund
8 to them. Although Respondent told them on December 23, 1999, that she would refund the fees in
9 a week, she did not do as promised.

10 On February 21, 2000, Respondent sent an accounting to the sisters, stating that the amount
11 of refund due was \$9,050.

12 On March 28, 2000, the sisters wrote to Respondent, disputing a portion of the accounting
13 but indicating that since the matter had taken so long to resolve, they were willing to accept three
14 monthly payments totaling \$9,050 from Respondent beginning April 14, 2000.

15 However, having received no refund from Respondent, the sisters had to hire attorney
16 Deborah Henderson to pursue the matter. On November 6, 2000, Respondent, attorney Gretsch and
17 Tiffany Harris-Sutton signed a Settlement Agreement and Mutual Release, settling their dispute for
18 \$11,000. While the sisters did not believe that Respondent had earned the remaining \$7,500
19 (\$18,500 - \$11,000), they wanted to move on and thus agreed to settle.

20 Under the agreement, Respondent had paid \$5,000 to the sisters by January 2001.⁴ But
21 thereafter, neither the sisters nor Foster received any additional funds pursuant to the agreement.

23 ⁴The Notice of Disciplinary Charges was amended to allege that Respondent refunded
24 \$4,000. However, based on the testimony of Harris-Sutton and attorney Edith Benay and other
25 documentary evidence, the court finds that Respondent had refunded \$5,000 and not \$4,000.
26 Harris-Sutton testified that Respondent paid her \$4,000 in November 2000 and \$1,000 in
27 December 2000. Although the \$1,000 check bounced, Respondent gave her another check in
28 January 2001. The letters from attorney Deborah Henderson, the Settlement Agreement and
Mutual Release, and the complaint filed in *Tiffany Harris-Sutton v. Maureen Kallins and
Charles Gretsch* in San Francisco County Superior Court, case No. 401373, confirm that
Respondent had paid \$5,000 to Harris-Sutton and not \$4,000. (State Bar exhibit 48.)

1 Respondent failed to continue the installment payments beginning February 5, 2001. Harris-Sutton
2 then filed a complaint against Respondent and attorney Gretsche for their breach of contract in San
3 Francisco County Superior Court, *Harris-Sutton v. Kallins and Gretsche*, case No. 401373. The
4 sisters obtained a default judgment against Respondent and attorney Gretsche for \$8,186.43 on
5 January 10, 2003. Other than the payment of \$5,000, neither Respondent nor attorney Gretsche paid
6 any portion of the remaining unearned fees. They did not perform any services of value in the habeas
7 corpus matter and thus, did not earn any portion of the attorney fees.

8 In September 2000, the sisters hired attorney Kent Russell to assist Foster to file the petition
9 for writ of habeas corpus in state and federal courts. Attorney Russell testified that Respondent had
10 not done any preliminary work concerning the petition. The petition was later filed in the California
11 Supreme Court, two months after attorney Russell was retained, but was denied in March 2001. The
12 petition before the U.S. District Court for the Northern District of California is still pending.

13 ***1. Count 5: Failure to Refund Unearned Fees (Rule 3-700(D)(2))***

14 Respondent argues that the "family intervened before the work could be finished and
15 Respondent was fired on August 8, 1999." (Respondent's Closing Brief, at p. 10.) She further
16 asserts that Foster has suffered no prejudice attributable to Respondent.

17 On the contrary, attorney Russell testified that when he was retained in September 2000 to
18 prepare the petition for writ of habeas corpus, the issue of statute of limitations was problematic
19 because the petitions had not been filed in either state or federal courts and the deadline for the
20 federal petition was due September 1999. As a result, in the federal petition, which was filed some
21 16 months after the expiration of the statute of limitations, Foster had to ask the court to consider
22 the petition on the basis of equitable tolling principles because of the "extraordinary misconduct and
23 misrepresentations" by Respondent. (State Bar exhibit 49.)

24 When Respondent was discharged as Foster's attorney in August 1999, she had not done any
25 work concerning the petition. Therefore, her contentions that the sisters were to be blamed and that
26 she was terminated before she had a chance to finish the work are without merit.

27 When the sisters demanded refund of the unearned fees, Respondent had an obligation to
28

1 promptly return any part of the \$18,500 paid in advance that had not been earned. Instead, they had
2 to hire attorney Deborah Henderson to assist them to pursue the refund. Respondent did not start
3 to pay until November 2000, more than a year after her employment's termination. And when she
4 failed to follow the payment schedule, the sisters had to seek a court's intervention, which resulted
5 in a default judgment against Respondent for \$8,186.43.

6 It is common in State Bar matters involving the failure to perform services to deem as
7 unearned the entire fee when only preliminary services were performed which did not result in any
8 benefit to the client. (*Gadda v. State Bar* (1990) 50 Cal.3d 344.) Attorney Gretsche's visit with
9 Foster in prison was of no benefit to his client.

10 Therefore, other than the \$5,000 paid, Respondent still owes the sisters the remaining balance
11 of \$13,500 since she failed to perform any services that benefitted Foster in his habeas corpus
12 petition. Thus, Respondent's failure to promptly refund the entire fee clearly and convincingly
13 violated rule 3-700(D)(2) in count 5.

14 **2. Count 6: Unconscionable Fee (Rule 4-200(A))**

15 Respondent entered into an agreement with Foster's sisters to prepare a petition for writ of
16 habeas corpus petition for \$25,000, but she did not perform the services. However, there is no clear
17 and convincing evidence that Respondent is culpable of charging or collecting an unconscionable
18 fee at the time of the agreement in violation of rule 4-200(A) in count 6. Respondent failed to
19 complete the services for which she was hired, but the fees charged and collected were not
20 unconscionable at the time of the agreement.

21 **F. The Washington Matter**

22 On March 26, 1997, Anthony E. Washington hired Respondent to represent him in a criminal
23 matter and paid her \$8,500 as advanced fees in three installments between March and April.

24 Over the next six months, between April and September 1997, although Respondent did not
25 make personal court appearances on behalf of Washington, her associates, Stephen Sherman and
26 Laurice Cheung, appeared in court about seven times. In April 1997, with attorney Sherman's
27 assistance, Washington surrendered to the authorities as a result of an arrest warrant. While
28 Washington was in custody, Respondent or her associates appeared at his arraignment, conducted

1 research regarding Washington's possible three strikes case, discussed plea negotiations with the
2 deputy district attorney, filed a motion to continue the preliminary hearing, visited Washington in
3 jail, continued the preliminary hearing and reviewed the file.

4 Washington attempted to contact Respondent on several occasions regarding his case status.
5 Respondent did not respond to his messages.

6 Alicia Ferrell (also known as Rosealicia Ferrell), Washington's current wife, repeatedly
7 telephoned Respondent on his behalf to inquire about his case. Ferrell left numerous telephone
8 messages for Respondent but Respondent did not return her telephone calls.

9 Meanwhile, Washington remained in custody.

10 On September 9, 1997, frustrated by Respondent's lack of communication, Ferrell left a
11 message at Respondent's office, discharging Respondent as attorney for Washington and requesting
12 an accounting and refund of unearned fees. Again, Respondent did not respond to the message.

13 On October 10, 1997, Ferrell received an accounting from Respondent, indicating that \$8,270
14 was received as advanced fees, \$8,356.25 of legal services was expended, and an outstanding
15 balance of \$86.25 was due.⁵

16 On November 21, 1997, Washington wrote to Respondent, disputing the fees charged and
17 requesting a refund. Neither Washington nor Ferrell received a portion of any unearned fees.
18 Washington testified at this hearing that he estimated that Respondent earned \$2,000 of the \$8,500
19 advanced fees. Respondent, however, contends that the work she and her office performed on behalf
20 of Washington was worth at least \$8,356.25.

21 **1. Count 7: Failure to Refund Unearned Fees (Rule 3-700(D)(2))**

22 Respondent argues that there were no unearned fees to be refunded to Washington. She
23 contends that she arranged his surrender to the authorities without any violence, that her office spent
24 weeks researching about the new three strikes law in 1997, that she removed the prior strikes against
25 him, that the associates from her office appeared in court on his behalf on several occasions and that
26

27 ⁵On the contrary, Respondent admitted in her response to the Notice of Disciplinary
28 Charges that she had received \$8,500 as advanced fees from Washington.

1 they interviewed him when he was in prison. More importantly, Respondent asserts that Washington
2 downplayed the seriousness of his criminal charges and that he could have been in jail for life but
3 for Respondent's work on his behalf.

4 Washington, on the other hand, contends that the fees should be only \$2,000 because
5 Respondent failed to represent him in a preliminary examination hearing and her services were of
6 minimal value to him during those six months he was incarcerated.

7 As discussed above in the Chung matter, this court does not determine whether the fees
8 charged were reasonable. The proper forum for the parties to settle their fee dispute is before a fee
9 arbitrator under Business and Professions Code section 6200. Here, while the parties disagree on
10 the value of the services performed during Washington's incarceration, there is no clear and
11 convincing evidence that Respondent's October 1997 accounting was inaccurate. Respondent and
12 her office did some work in the Washington matter, such as the arraignment, court appearances and
13 a jail visit. It is not up to this court to determine whether the fees were reasonable. Instead, the issue
14 is whether Respondent had promptly return unearned fees upon her termination of employment in
15 September 1997. According to Respondent's own accounting, she performed services totally
16 \$8,356.25. Respondent was paid \$8,500. Thus, there is clear and convincing evidence that
17 Respondent failed to refund promptly \$143.75 in violation of rule 3-700(D)(2) in count 7.

18 **2. Count 8: Failure to Communicate (Business and Professions Code Section**
19 **6068(m))⁶**

20 Section 6068(m) requires an attorney to respond promptly to reasonable status inquiries of
21 clients and to keep clients reasonably informed of significant developments in matters with regard
22 to which the attorney has agreed to provide legal services. By failing to return Washington's and
23 Ferrell's numerous telephone calls regarding Washington's case status and preliminary examination
24 hearing, Respondent clearly and wilfully failed to respond promptly to reasonable status inquiries
25 of her client in wilful violation of section 6068(m).

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28 ⁶References to section are to the provisions of the Business and Professions Code.

1 **3. Count 9: Failure to Perform (Rule 3-110(A))**

2 Rule 3-110(A) provides that a member shall not intentionally, recklessly or repeatedly fail
3 to perform legal services with competence. The State Bar argues that Respondent violated rule 3-
4 110(A) by failing to conduct a bail study on behalf of Washington and by continually postponing the
5 preliminary hearing while Washington was in custody.

6 Respondent asserts that there were reasons to continue the preliminary examination, such as
7 waiting for the issue of prior convictions to be resolved. She also argues that the bail study was
8 insignificant in that subsequent bail motions after September 1997 resulted in an increase in the bail.
9 Moreover, she contends that Washington was ultimately given credit for time served, including the
10 time in jail waiting for the preliminary examination.

11 Accordingly, there is no clear and convincing evidence that Respondent wilfully violated rule
12 3-110(A).

13 **4. Count 10: Unconscionable Fee (Rule 4-200(A))**

14 Respondent entered into an agreement with Washington to represent him in his criminal
15 matter for \$8,500. There is no clear and convincing evidence that Respondent is culpable of
16 charging or collecting an unconscionable fee at the time of the agreement in violation of rule 4-
17 200(A) in count 10.

18 **G. The Basalo Matter (Judge Vaughn R. Walker)**

19 In April 1996, Jaime Aberlado Basalo hired Respondent to represent him in a criminal
20 matter, *U.S.A. v. Basalo et al.*, United States District Court, Northern District of California, case No.
21 CR-96-0074-VRW.

22 Before the trial on December 2, 1997, Respondent received \$50,000 from Basalo's parents
23 as attorney fees. There was no written fee agreement.

24 Following a lengthy trial, Basalo was convicted of all charges. After the trial and before the
25 sentencing, Basalo informed District Court Judge Vaughn R. Walker that he was dissatisfied with
26 Respondent's services and that he wished to obtain new counsel for his anticipated appeal.

27 At a March 10, 1998 hearing, Respondent moved to withdraw as Basalo's attorney of record.
28 Judge Walker inquired into the fee agreement between Respondent and Basalo to determine whether

1 Basalo was eligible to court-appointed appellate counsel under the Criminal Justice Act. Respondent
2 assured the court that her fee arrangement with Basalo only covered representation through trial. She
3 further represented to the court that she and Basalo, or she and Basalo's parents, had entered into a
4 written fee agreement. Respondent and the court had the following exchange:

5 *The Court:* Was this agreement in writing?

6 *Respondent:* It was, your honor....

7 *The Court:* There was a written representation agreement?

8 *Respondent:* I believe there was, your honor.

9 *The Court:* Was there a written agreement, Mr. Basalo, to your recollection?

10 *Basalo:* I've never seen it.

11 *The Court:* Never saw it. Ever sign a representational agreement?

12 *Basalo:* I think maybe my mother did....

13 *Respondent:* That's correct, your honor. I think it was with the parents.

14 (State Bar exhibit 65, at p. 4.)

15 In fact, Respondent had no written fee agreement with either Basalo or his parents. However,
16 based on Respondent's representations, Judge Walker believed there was a written fee agreement
17 and ordered Respondent to submit the agreement to the court and file a written motion to withdraw
18 as counsel.

19 On March 12, 1998, Respondent filed a motion for leave to withdraw as attorney of record.
20 But instead of submitting a written fee agreement, Respondent submitted a declaration stating: "Mr.
21 Basalo arranged to have me represent him through trial.... My fee to represent Mr. Basalo in this
22 action was \$50,000. This fee was only representation through trial and did not include representation
23 on an appeal." (State Bar exhibit 64.) She also submitted some letters discussing the fee
24 arrangement; none of them constituting a written fee agreement.

25 On March 16, 1998, the court again ordered Respondent to provide the written fee agreement
26 by March 27, 1998. When Respondent indicated that she was unable to provide the document on
27 time, the court gave her until April 3, 1998. Respondent failed to submit any further information to
28 the court on the issue of whether or not she had a written fee agreement with Basalo. Thus, on April
9, 1998, the court issued an order to show cause.

On April 21, 1998, the court held an order to show cause hearing as to why Respondent
should not be held in contempt of court for failure to comply with a court order and why this matter
should not be referred to the State Bar for proper disciplinary action. The hearing also concerned

1 her pending motion to withdraw as Basalo's attorney. Respondent appeared in person and was
2 represented by counsel, Jan Nielsen Little.

3 At the hearing, Respondent, through her counsel, argued that there was some ambiguity in
4 her representations as to the existence of a written fee agreement based on her second statement that
5 she 'believed' there was an agreement with Basalo's parents. Nevertheless, at the OSC hearing
6 Respondent finally admitted to the court that she never entered into a written fee agreement with
7 Basalo or his parents as evidenced, in part, by some of the following exchanges:

8 *Ms. Little:* It would have been better had [Respondent] said, "Your
9 honor, I can't produce anything more because I have nothing more."
That would have been better.

10 *The Court:* There was no written fee agreement and there was no
11 reason for her not to admit - -

12 *Ms. Little:* That would have been better.

13 *The Court:* - - And to have cleared up either a misstatement,
14 inadvertent or advertent, that she had made to the court two days
15 previously.

16 *The Court:* . . . It's regrettable that Ms. Kallins did not own up to
17 what the facts were and to do so forthrightly, as you have done
18 belatedly on her behalf. That, obviously, would have been the best
thing to have done in her interest, as well as her client's interest, and
we could have resolved this matter a long time ago. . . .

19 *Ms. Little:* . . . I should also point out that in Ms. Kallins' mind it
20 was the case that her submission did indicate that there was no
written fee agreement. And, indeed, the government in its response
... concluded there was no written fee agreement.

21 *The Court:* Well, it surmised that there was no written fee
22 agreement.

23 (State Bar exhibit 66, at pp. 12-14.)

24 Respondent was present at the OSC hearing. She never attempted to interject or correct
25 Judge Walker's repeated statements that there was no written fee agreement. In fact, when given an
26 opportunity to speak, Respondent apologized for not letting the court know earlier that no fee
27 agreement existed:
28

1 **The Court:** Well, is there anything more to say on the contempt
2 matter?

3 **Ms. Kallins:** I just want to say I was sorry that I hadn't said more in
4 my papers; that it hadn't been more clear, but I kept searching and I
5 wasn't clear myself at the time that you questioned me, and I'm sorry
6 I wasn't more clear, that I wasn't more forthcoming with a definite
7 statement when I discovered that there was nothing more to submit.

8 **The Court:** Even if you were flat out wrong - -

9 **Ms. Kallins:** You're right.

10 **The Court:** - - Why not admit it?

11 **Ms. Kallins:** I agree with you, your honor.

12 **The Court:** Much less if it was inadvertent. Why did it take all of this
13 to get to the bottom of the matter?

14 **Ms. Kallins:** I'm sorry, your honor, I really am. I really apologize.
15 I had a couple other things on my mind, and I apologize.

16 (State Bar exhibit 66, at pp. 20-21.)

17 Respondent was under a court order to produce a copy of a written fee agreement that did not
18 exist. "Because a court cannot hold a lawyer in contempt for failure to comply with an order if it
19 would be impossible for the lawyer to do so, the court did not cite [Respondent] for contempt."
20 (State Bar exhibit 62, at p. 2.) On April 23, 1998, the court issued an order reporting Respondent
21 to the State Bar for her failure to comply with section 6148, which requires a written contract for
22 legal services that exceed \$1,000.

23 On July 22, 1998, the court ordered Respondent to refund \$5,000 of the \$50,000 fee to
24 reimburse the court for the cost of Basalo's counsel appointed under the Criminal Justice Act.
25 Respondent complied.

26 **1. Count 11: Failure to Maintain Respect (§ 6068(b))**

27 Section 6068(b) provides that it is the duty of an attorney to maintain the respect due to the
28 courts of justice and judicial officers.

 In her closing brief, Respondent argues that she had told Judge Walker that she was unable
to locate the written fee agreement, and therefore could not produce it to the court, but thought that
one existed. She denies that she had ever admitted to the court that she never entered into a written

1 fee agreement with Basalo. Respondent's attempts to re-characterize her and her counsel's
2 representations at the April 21, 1998 OSC hearing are extremely troubling and clearly demonstrate
3 Respondent's indifference toward rectification of or atonement for the consequences of her
4 misconduct.

5 Furthermore, Respondent's attempt to downplay her representations at the March 10, 1998
6 hearing ignores the fact that based on her statements to Judge Walker, he believed there was a
7 written fee agreement and repeatedly ordered her to produce it. Despite her misrepresentations and
8 repeated opportunities to clarify her statements, Respondent waited until the April 21, 1998 OCS
9 hearing to concede that there was no written fee agreement.

10 Hence, in count 11, Respondent wilfully violated section 6068(b) by failing to maintain the
11 respect due to the court in that she misrepresented to Judge Walker at the March 10, 1998 hearing
12 that she and Basalo had a written fee agreement and failed to be forthright until more than a month
13 later at the April 21, 1998 OSC hearing.

14 **2. Count 12: Misleading the Court (§ 6068(d))**

15 Section 6068(d) provides that an attorney shall never seek to mislead the judge by an artifice
16 or false statement of fact or law. The Supreme Court has held that "[t]he presentation to a court of
17 a statement of fact known to be false presumes an intent to secure a determination based upon it and
18 is clear violation of [section 6068(d)]." (*Pickering v. State Bar* (1944) 24 Cal.2d 141, 144.) "Actual
19 deception is not necessary to prove wilful deception of a court; it is sufficient that the attorney
20 knowingly presents a false statement which tends to mislead the court. [Citation.]" (*Davis v. State*
21 *Bar* (1983) 33 Cal.3d 231, 240.)

22 Here, there is clear and convincing evidence that Respondent mislead Judge Walker by
23 representing to the court at the March 10, 1998 hearing that she and her client had a written fee
24 agreement. The court gave her several opportunities thereafter to submit such an agreement or
25 clarify her earlier misrepresentations, but she failed to do so. Accordingly, Respondent knowingly
26 allowed the court to continue to rely on her representations that a written fee agreement existed.

27 The court noted that "[t]here was no written fee agreement and there was no reason for
28 [Respondent] not to admit ... and to have cleared up either a misstatement, inadvertent or advertent,

1 that she had made to the court two days previously.” (State Bar exhibit 66, at p. 12.) The court
2 further stated: “One might consider under the circumstances, which I think are fairly extreme, a
3 possible sanction of criminal contempt for what I think are serious misleading statements by Ms.
4 Kallins to the Court.” (State Bar exhibit 66, at p. 15.) Respondent clearly violated her duty of not
5 misleading the judge under section 6068(d) in count 12.

6 However, the misconduct underlying both sections 6068(b) and (d) violations is the same.
7 The court will not attach additional weight to the finding of the two violations in determining the
8 appropriate discipline to recommend in this matter. Little, if any, purpose is served by duplicative
9 allegations of misconduct. (*Bates v. State Bar* (1990) 51 Cal.3d 1056, 1060.)

10 **3. Count 13: Moral Turpitude (§ 6106)**

11 Section 6106 prohibits an attorney from engaging in conduct involving moral turpitude,
12 dishonesty or corruption.

13 Respondent’s argument that the fact that she could not find the agreement did not mean that
14 the agreement did not exist is without merit.

15 Judge Walker gave Respondent at least three opportunities to come forward and correct her
16 misrepresentations of March 10, 1998, that there was a written fee agreement. Yet, she chose to file
17 ancillary documents, such as letters and her declaration, that were nonresponsive to the court’s order.
18 She continued her acts of dishonesty until finally, at the April hearing, it was clarified that no written
19 fee agreement existed.

20 Therefore, Respondent violated section 6106 by committing acts of dishonesty in
21 misrepresenting to the court that the written fee agreement existed between her and her client and
22 by subsequently failing to be candid with the court.

23 As discussed in count 12, because the misconduct underlying sections 6068(b) and (d)
24 charges is the misconduct covered by the section 6106 charge, which supports identical or greater
25 discipline, the court gives no additional weight to the section 6106 charge in determining the
26 appropriate discipline. (*In the Matter of Chestnut* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr.
27 166, 175.)

28 ///

1 **H. The Angelo Matter (Judge Joseph Hurley)**

2 The following three matters – Angelo, Chong and Reed – concern Respondent’s disruptive
3 conduct during the course of trial, resulting in findings of contempt beyond a reasonable doubt.
4 There is no evidence of any judicial, prosecutorial or gender bias. Applying the principles of
5 collateral estoppel, the findings in the contempt orders are given preclusive effect and Respondent
6 is precluded from re-litigating those issues. (*In the Matter of Kittrell* (Review Dept. 2000) 4 Cal.
7 State Bar Ct. Rptr. 195, 205.)

8 Respondent represented Daniel Angelo in a criminal matter in the Alameda County Superior
9 Court, *People v. Angelo*, case No. 120984. During the hearings on February 19, February 21, and
10 March 12, 1997, Judge Joseph Hurley sanctioned Respondent for her repeated acts of misconduct
11 before the court.

12 Judge Hurley testified that in his 10 years as a superior court judge, Respondent was the only
13 attorney he had ever held in contempt for conduct in his courtroom. He found her conduct to be
14 disruptive, disrespectful, misleading and not truthful, causing extreme inconvenience to the jury
15 because they were asked to leave the courtroom more often than in any 12 trials put together that he
16 has had.

17 On February 19 and 21, Respondent repeatedly argued with and interrupted the court,
18 accused the court of being sexist, disgusting and prejudicial, threatened to report the court’s conduct
19 to the Commission on Judicial Review, and abruptly left the proceedings without explanation. As
20 a result, the court fined Respondent \$250 in sanctions.

21 According to Judge Hurley’s two Orders and Judgment of Contempt filed February 27, 1997,
22 and March 14, 1997, the court found beyond a reasonable doubt that Respondent’s behavior was
23 “rude, offensive, disorderly, insulting, and insolent toward the judge while holding the court, tending
24 to interrupt the due course of the judicial hearing,” (State Bar exhibit 69, at p. 6 and exhibit 70, at
25 p. 10.) Respondent’s statements “impugned the court’s integrity...[and] made contemptuous charges
26 of judicial misconduct.” (State Bar exhibit 69, at p. 6, and exhibit 70, at p. 10.)

27 The documentary evidence fully outlines Respondent’s disruptive and outlandish behavior.
28 Respondent ignored the court’s repeated warnings about her inappropriate conduct. An example of

1 Respondent's outburst on February 19:

2 *Respondent:* Then the Court is saying I'm a liar ... It's so a judge
3 who sits with a robe and acts as a prosecutor that I can't concentrate
4 ... I think that the personal attacks are coming from the bench, and I
5 think that your attitude is gender bias ... I think that this court is
6 prejudiced. I think that this court is hell bent ... to see a conviction in
7 this case ... I will not be interrupted ... I will not be interrupted. I will
8 be treated with respect or I will not return. I will take the court to the
9 committee on judicial review for interrupting me repeatedly.

10 (State Bar exhibit 69, at pp. 9-16.)

11
12 On February 21, as the court was speaking, Respondent repeatedly interjected with her
13 comments:

14 *Respondent:* Don't cut me off. Look, I'm not going to be cut off ...
15 You're not going to cut me off. It's sexist and it's disgusting ... You
16 interrupted me.

17 *The Court:* You stood up. I told you to sit down. You didn't. Then
18 I told you not to keep talking. You did keep talking. You are in
19 contempt...

20 *Respondent:* Sorry, I can't proceed. I have to leave.

21 (Respondent left the chambers.)

22 *The Court:* Well, Counsel, let's go back on the record. Counsel has
23 stood up and said she cannot proceed, she has to leave, and walked
24 out the back door. I am at a loss as to what is possessing her at this
25 point ...

26 (Respondent left the chambers again.)

27 But now counsel without excuse has left so there's nothing we can do
28 right now...I'm not sure why she walked out ... This is completely
inappropriate.

(State Bar exhibit 69, at pp. 17-20.)

Respondent later apologized to the court.

On March 12, Respondent again interrupted the court, argued with and ignored the court's
evidentiary rulings, and made inappropriate comments in front of the jury (i.e., stating what
punishment her client might faced and that she wanted to cross examine before the adversary could
have another meeting with a witness). As a result, the court issued a second order and judgment of
contempt and sanctioned Respondent \$1,000. The court found beyond a reasonable doubt that

1 Respondent was guilty of contempt of court.

2 Further examples of Respondent's contemptuous conduct on March 12:

3 *The Court:* If he's putting down as witnesses is not relevant - -

4 *Respondent:* Why isn't it relevant, judge? Don't you want the jury to
5 know who the witnesses were, who the D.A. - -

6 *The Court:* Counsel, that is - - that's completely improper. That is
7 gross misconduct. You have been doing it all day.

8 (State Bar exhibit 68, at p. 12:6-13.)

9 Later, when addressing Judge Hurley's statement that her behavior was contemptuous,
10 Respondent made the following remarks to the court:

11 *Respondent:* You have tried in every way to assist Mr. Meehan
12 [deputy district attorney] whose father you did work for, and you
13 were a long time district attorney. I have never in 20 years
14 experienced this. I have never - excuse me, I'm not done. As a
15 woman, I'm 48 years old, I have never been treated this way ever. In
16 the most sexist of treatment that I have ever received in my entire life,
17 this has never occurred.... I have been interrupted, I have been
18 badgered, and in fact brought to tears by this court in front of the jury.
19 I cried in front of the jury. I cannot - in 20 years this has never
20 happened....

21 *The Court:* I find it - counsel, I find it an act...This is a tactical act
22 upon your part. You have had your opportunity to speak...Counsel,
23 do not interrupt me again.... You know when you are crossing the line,
24 and you're choosing repeatedly to cross the line. It appears
25 purposefully to be done so.

26 (State Bar exhibit 68 at pp. 23-26.)

27 Respondent paid the \$1,000 fine but did not report it to the State Bar.

28 Throughout the *Angelo* trial from February to April 1997, Judge Hurley had to repeatedly
admonish Respondent on at least 16 occasions not to interrupt the court, not to make personal attacks
on the court, not to order people in the courtroom, not to laugh in front of the jury during the
prosecutor's rebuttal argument and not to yell. (State Bar exhibit 67.) Judge Hurley stated that
Respondent's conduct was extreme and he had to repeatedly tell her to stop threatening the court.

29 ***1. Count 14: Failure to Maintain Respect (§ 6068(b))***

30 By repeatedly arguing with and interrupting the court, by accusing the court's conduct as
31 being sexist and disgusting, by accusing the court of being prejudicial, by threatening the court that

1 she would report his conduct to the Commission on Judicial Review, and by twice abruptly leaving
2 the proceedings without explanation, Respondent failed to maintain the respect due to the court and
3 wilfully violated section 6068(b). Her statements impugned the integrity and honesty of the court.
4 Based on the testimony of Judge Hurley and documentary evidence, there is clear and convincing
5 evidence that Respondent's disparaging statements were false and her actions during the *Angelo* trial
6 were contemptuous.

7 **2. Count 15: Failure to Report Court Sanctions (§ 6068(o)(3))**

8 Section 6068(o)(3) requires an attorney to report to the State Bar, in writing, within 30 days
9 of the time the attorney has knowledge of the imposition of any judicial sanctions against the
10 attorney. By failing to report to the State Bar the \$1,000 sanction ordered against her on March 14,
11 1997, Respondent wilfully violated section 6068(o)(3).

12 **3. Count 16: Failure to Obey A Court Order (§ 6103)**

13 On May 14, 2004, the court granted State Bar's request to amend the Notice of Disciplinary
14 Charges to dismiss count 16, which alleges that Respondent failed to pay the \$1,000 sanctions.
15 Thus, count 16 is dismissed with prejudice.

16 **I. The Chong Matter (Judge Richard H. Gilmour)**

17 Respondent represented Paul O. Chong in a criminal matter in the Sacramento County
18 Superior Court, *People v. Chong*, case No. 96FO7352. Judge Richard H. Gilmour presided over the
19 case.

20 On June 8, 1998, the parties stipulated to certain in limine motions which were approved and
21 granted by the court. But during the course of the jury trial, Respondent blatantly disregarded the
22 court's rulings on the motions in limine: (1) by making speaking objections in disregard of the
23 court's admonishments not to do so; (2) by offering to stipulate to matters in front of the jury, in
24 contravention to pretrial stipulations; (3) by repeatedly remarking in front of the jury that she had
25 not received discovery; and (4) by refusing to treat either counsel or the court respectfully.

26 Furthermore, Respondent repeatedly interrupted witnesses during questioning and repeatedly
27 interjected improper and prejudicial information to the jury.

28 The court advised Respondent:

1 "I repeatedly have ordered you throughout this trial that it is
2 inappropriate conduct for you to argue with the Court and to make
3 snide remarks and asides and to state things that are obviously
4 designed to influence the jury in response to the Court's rulings."
(State Bar exhibit 73, at p. 28:10.)

5 Consequently, the court found that Respondent was guilty of contempt of court beyond a
6 reasonable doubt in that her question/remarks to the court constituted disorderly, contemptuous and
7 insolent behavior in the immediate presence of the judge while holding court in open session,
8 causing a disruption in the proceedings and prejudice to the opponents case. (Code Civ. Proc.,
9 §1209, subd. (a).)

10 The court further found that Respondent was hostile, belligerent and disrespectful by stating
11 to the court:

12 "What are you saying? That's a complete lie. That's a bald face lie.
13 What you're saying is an untruth."
(State Bar exhibit 73, at p. 36:17.)

14 As a result, the court concluded Respondent was guilty of contempt of court beyond a
15 reasonable doubt in that said statements were made in the immediate presence of the court while in
16 session in such a manner as to delay and impede and actually interfere with orderly court
17 proceedings. (Code Civ. Proc., §1209, subd. (a) 1, 2, and 5.)

18 The court issued an order and judgment of contempt on June 18, 1998, fining Respondent
19 \$200 for contempt.

20 Judge Gilmour has been a judge for 12 years and Respondent was the only attorney he has
21 ever held in contempt for conduct in his courtroom. He testified that he did not object to aggressive
22 advocacy but Respondent went beyond that. She was rude and contemptuous.

23 On November 15, 1999, the Court of Appeal, Third Appellate District, affirmed the findings
24 of Judge Gilmour and cited 10 separate incidents in which Respondent failed to show respect to the
25 court or opposing counsel, disregarded court rulings, made inappropriate comments before the jury
26 and repeatedly interrupted the proceedings.

27 The Court of Appeal stated in its opinion that:

28 "Accordingly, an attorney, 'however zealous in his client's behalf,
has, as an officer of the court, a paramount obligation to the due and
orderly administration of justice' (*Chula v. Superior Court* (1952))

1 109 Cal.App.2d 24, 39.)”

2 (State Bar exhibit 72, at p. 21.)

3 The Court of Appeal further opined:

4 “Kallins is flatly wrong in her assessment of the fairness of the trial.
5 Our review of the record reveals that the trial court did not commit
6 any prejudicial error in its rulings and that it was remarkably
7 courteous and restrained when dealing with Kallin’s gross
8 misconduct, which created what could be described as a ‘trial from
9 hell.’ Kallins also is flatly wrong in the self-assessment of her
conduct. In our collective 97 years in the legal profession, we have
seldom seen such unprofessional, offensive and contemptuous
conduct by an attorney in a court of law.”
(State Bar exhibit 72, at p. 24.)

10 ***1. Count 17: Failure to Maintain Respect (§ 6068(b))***

11 Respondent expressed remorse in her closing brief. But at this proceeding, Respondent
12 continued to argue that she was righteous in defending her client at the *Chong* trial and was
13 “flattered” that the Court of Appeal dedicated an opinion to her.

14 The Supreme Court has cautioned that “it is a violation of professional standards for counsel
15 to indulge in offensive and demeaning remarks about judges in a spirit of reckless disregard for the
16 truth.” (*Lebbos v. State Bar* (1991) 53 Cal.3d 37, 45-46.) Here, Respondent recklessly charged
17 Judge Gilmour of stating “a bald face lie.”

18 By repeatedly ignoring the court’s ruling, arguing with the court about its rulings, interrupting
19 a witness during questioning, interjecting improper and prejudicial information to the jury, and
20 accusing the court of lying, Respondent failed to maintain respect due to the court of justice and
21 judicial officers in wilful violation of section 6068(b).

22 **J. The Reed Matter (Judge Jeffrey W. Horner)**

23 Respondent represented Anthony Reed in the Alameda County Superior Court, case No.
24 124449, in *People v. Anthony Reed*. Judge Jeffrey W. Horner presided over the trial.

25 Prior to trial, the court issued an order on October 25, 1999, setting forth standards of conduct
26 for counsel during the trial. The rules included, but were not limited to, no screaming or shouting
27 at witnesses, jurors, opposing counsel or the judge; respectfully yielding to the rulings of the court;
28 no interjecting inadmissible and prejudicial statements for the purpose of inflaming the jury; no

1 making speaking objections in front of the jury; and no reference to penalty or punishment.

2 During the course of the trial from October 1999 through January 2000, the court found
3 beyond a reasonable doubt Respondent in contempt of court on five different occasions, resulting
4 in a cumulative fine of \$4,300 and 20 days in jail:

5 a. *December 3, 1999 Order and Judgment of Contempt – \$300 Sanctions*

6 In consideration of Respondent's brother's sudden death and her grief, the court
7 granted Respondent a continuance of the trial. But ultimately, the court found her reasons to be
8 disingenuous, including on the day she claimed that she could not appear in court due to her grief,
9 Respondent held two lengthy press conferences in another case. The court found Respondent in
10 contempt for her failing to appear in court in direct disobedience of a court order and without lawful
11 excuse (violation of Code Civ. Proc., § 1209, subd. (a)(5)). The court sentenced her to pay a fine of
12 \$300;

13 b. *December 15, 1999 Order and Judgment of Contempt – \$1,000 Sanctions and Five
14 Days in Jail*

15 The court found Respondent's comments during the proceedings to constitute
16 degrading, insulting and derogatory attacks on the dignity, integrity, impartiality and fairness of the
17 court; on the integrity of the opposing counsel; and on the fairness and propriety of the proceedings
18 as a whole (violation of Code Civ. Proc., §1209, subd. (a)(1)), and in disobedience of any lawful
19 judgment, order, or process of the court (violation of Code Civ. Proc., §1209, subd. (a)(5)). The
20 court sentenced her to pay a fine of \$1,000 and serve five days in jail;

21 c. *January 3, 2000 Order and Judgment of Contempt – \$1,000 Sanctions and Five Days
22 in Jail*

23 The court found Respondent in contempt for her many acts of misconduct, including
24 unrelenting sarcastic, insolent, and arrogant tone in addressing opposing counsel and the court;
25 repeatedly asking the same question of a witness six separate times despite the court's having
26 sustained an asked-and-answered objection on each occasion; repeatedly interrupting the court
27 despite repeated admonitions by the court to cease such behavior; launching into a "fit of
28

1 diatribe" directed at the court; wilfully and deliberately making prejudicial statements to the jury; and
2 engaging in an extremely hostile and totally improper speaking objection, openly questioning and
3 criticizing the court's ruling in the presence of the jury;

4 d. *January 24, 2000 (Morning) Fourth Order and Judgment of Contempt - \$1,000*
5 *Sanctions and Five Days in Jail*

6 In the morning of January 14, 2000, the court found Respondent in contempt for her
7 outrageous acts of misconduct, including making references to her client's penalty and punishment
8 before the jury, in violation of the court's order. The court fined her \$1,000 and sentenced her to five
9 days in jail; and

10 e. *January 24, 2000 (Afternoon) Fourth Order and Judgment of Contempt - \$1,000*
11 *Sanctions and Five Days in Jail*

12 On the same day (January 14), in the afternoon, the court found that Respondent was
13 totally out of control and that she believed that she was above the law. The court again found her
14 in contempt for making deliberate statements on penalty and punishment during closing argument,
15 in violation of the court's instructions, which would prejudice the jury. It was even more egregious
16 because it came after the morning contempt finding and the court's accompanying additional
17 warnings. As a result, the court fined her an additional \$1,000 and sentenced her to five additional
18 days in jail.

19 Respondent appealed the contempt orders, except the December 3, 2000 finding with a \$300
20 fine and no jail time.⁷

21 On March 19, 2002, the United States District Court, Northern District of California, Judge
22 Thelton E. Henderson presiding in *Kallins v. Superior Court of the State of California*, affirmed that
23 the use of summary contempt by Judge Horner was proper in three of the four instances. (State Bar
24 exhibit 77.) The court rejected Respondent's accusation of judicial bias as unfounded and
25 unwarranted.

26 _____
27 ⁷Roger Lowenstein, Respondent's counsel for the appeal, testified that under federal law,
28 one could not challenge a contempt order that did not result in jail sentence. Therefore,
Respondent appealed four of the five contempt findings.

1 In conclusion, Judge Henderson found Respondent's behavior in the *Reed* trial to be
2 summarily contemptuous and that it "went beyond that of legitimate, zealous advocacy, and instead
3 evidenced a disregard for the rules and procedure upon which the very functioning of our adversarial
4 system of justice depends." (State Bar exhibit 77, at p. 18.)

5 On July 24, 2003, the United States Court of Appeals, Ninth Circuit, affirmed in part and
6 reversed in part, in *Kallins v. Superior Court of California*. The court affirmed the four contempt
7 sanctions by Judge Horner and reversed Judge Henderson's relief as to the one sanction finding. The
8 Ninth Circuit concluded:

9 "Given the litany of disrespectful comments and the volume at which
10 they were delivered (all in violation of the court's instructions), it was
11 not objectively unreasonable for Judge Horner to conclude that
12 Kallins had engaged in 'disruptive conduct in the course of trial and
13 in knowing violation of a clear and specific direction from the trial
14 judge' so as to warrant summary contempt. [Citation.]"
15 (State Bar exhibit 76, at pp. 2-3.)

16 Judge Horner testified that in his 18 years on the bench, Respondent was the only attorney
17 he has held in contempt. Deputy District Attorney Morris Jacobson, the prosecutor in the *Reed* trial,
18 testified to Respondent's disrespectful and hostile behavior towards him and the court during the
19 trial. She screamed, laughed, got up and turned her back to the court while the court was speaking,
20 attacked the prosecutor with personal offensive remarks, and repeatedly accused the District
21 Attorney's Office for being sexist, racist and unethical.

22 Respondent admits that she did not report the court sanctions to the State Bar.

23 ***I. Count 18: Failure to Maintain Respect (§ 6068(b))***

24 Respondent does not dispute the contempt charges but offers evidence in mitigation in her
25 closing brief. But at this proceeding, Respondent maintained no remorse and did not believe her
26 behavior was the reason for those contempt findings. In fact, she opined that she acted "excellently"
27 in light of the situation.

28 By failing to appear in court, by making prejudicial statements, speaking objections and
references to punishment, in violation of court order, and by behaving rudely and insolently toward
the court, as evidenced by the five contempt orders and judgments issued against Respondent during
the *Reed* trial, Respondent failed to maintain respect due to the court of justice and judicial officers

1 in wilful violation of section 6068(b).

2 **2. Count 19: Failure to Report Court Sanctions (§ 6068(o)(3))**

3 By failing to report to the State Bar the \$4,000 sanctions ordered against her on four separate
4 occasions – December 15, 1999 (\$1,000), January 3, 2000 (\$1,000), and January 24, 2000 (twice –
5 totaling \$2,000), Respondent wilfully violated section 6068(o)(3). Because the December 3, 1999,
6 contempt sanction against Respondent was less than \$1,000, she did not have to report the
7 imposition of that sanction order.

8 **IV. MITIGATING AND AGGRAVATING CIRCUMSTANCES**

9 **A. Mitigation**

10 Respondent bears the burden of proving mitigating circumstances by clear and convincing
11 evidence. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std.
12 1.2(e).)⁸ There is no compelling mitigating evidence.

13 Respondent's 17 years of practice without a record of prior discipline when the misconduct
14 began in 1997 is a mitigating factor. (*In the Matter of Brazil* (Review Dept. 1994) 2 Cal. State Bar
15 Ct. Rptr. 679, 688 [14 years entitled to mitigation].) (Std. 1.2(e)(i).)

16 Respondent argues that the emotional difficulties suffered at the time of her misconduct in
17 the *Reed* matter was mitigating evidence. Respondent was grief stricken when her brother suddenly
18 passed away during trial and she may not have acted rationally at the time. However, the record
19 shows that Judge Horner was sympathetic and granted her a continuance of the trial. Unfortunately,
20 Respondent took advantage of his empathy and escalated her irrational behavior to the point of
21 contempt. While the court finds that Respondent's emotional difficulties establish some weight in
22 mitigation, it does not excuse or mitigate her subsequent outrageous behavior, which resulted in five
23 contempt orders, \$4,300 in sanctions and a cumulative sentence of 20 days in jail. Moreover, her
24 misconduct was not aberrational, as evidenced by her contemptuous court behavior in other trials.
25 (Std. 1.2(e)(iv).)

26 Respondent offered seven character witnesses who attested to her dedication to clients and
27

28 ⁸All further references to standards are to this source.

1 lawyering skills and long record of community work. (Standard 1.2(e)(vi).) The witnesses included
2 two judges (Judge William W. Schwarzer and Judge Julie Conger) and five attorneys (James
3 Bustamante, Margo George, Jeff Adachi, Charles Gretsches, and J. Tony Serra).

4 Attorney James Bustamante, a lawyer and a firefighter, testified to his trial experience with
5 Respondent and praised her ability to be prepared and manage complex cases. He is also impressed
6 with her devotion to her clients.

7 Attorney Margo George is a public defender for almost 18 years at Alameda County Public
8 Defender's Office, a founding member of the Women Defenders,⁹ and a member of the executive
9 board of Alameda County Public Defenders Association. She has known Respondent for over 10
10 years. She testified to Respondent's outstanding trial skills and opined that Respondent had helped
11 to make changes against gender bias in the legal profession. She also asserted that while she had
12 experienced gender bias in her career, she had to deal with it carefully so as not to affect her clients'
13 cases. She further testified that Respondent, through Women Defenders, made herself available as
14 a mentor for young and inexperienced women criminal defense litigators.

15 Attorney Jeff Adachi, the San Francisco Public Defender, has practiced criminal defense
16 since 1985. He testified to Respondent's outstanding reputation as a fighter, with a tremendous drive
17 and energy for work. He also opined that she is a role model for the public defenders and a
18 motivational speaker. He also testified that it is very rare for an attorney to be held in contempt, an
19 extreme sanction where there is no alternative.

20 Attorney Gretsches testified that he and Respondent have been married for 14 years and that
21 he worked with Respondent on many of the cases at issue. He asserted that when he went to court
22 with Respondent, he observed second class treatment towards Respondent. He also testified to
23 Respondent's extreme distress due to her brother's death.

24 Attorney J. Tony Serra, a criminal defense attorney for over 40 years, submitted a declaration,
25 attesting to Respondent's abilities and the caliber of representation that she provides in criminal
26 cases. He declared that she "is the best woman criminal defense attorney [he has] ever seen in jury
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28 ⁹A professional association of women criminal defense practitioners.

1 trial action.” (Respondent’s exhibit 8-E’s.) He commented on her high intelligence coupled with
2 her passion. He also stated: “I unreservedly support her in her conflict with the State Bar (whatever
3 it is, I don’t know!).” (Respondent’s exhibit 8-E’s.)

4 Judge William W. Schwarzer and Judge Julie Conger testified to Respondent’s respectful
5 conduct in their courtroom. Their testimony was not offered to prove conduct on a specified
6 occasion, as argued by the State Bar. Rather, they attested to Respondent’s overall demeanor in
7 court before them. For example, Judge Conger stated that Respondent behaved in a pleasant and
8 professional manner during her various court appearances.

9 In conclusion, the character witnesses all attested to Respondent’s excellent lawyering skills.
10 But other than her husband, none of the witnesses were familiar with the charges facing Respondent
11 in this disciplinary proceeding. Although her character evidence is somewhat mitigating, it does not
12 amount to a showing of extraordinary demonstration of good character and therefore, does not merit
13 significant weight.

14 As echoed by the prosecutor in the *Reed* matter, attorney Jacobson testified that he has great
15 respect for Respondent’s abilities as a trial lawyer but opined that she is one of the most underhanded
16 lawyers he has ever met and a disrespect to the Bar. He stated that her “behavior absolutely violated
17 the most minimal boundaries of civility that exist in our society.” (State Bar exhibit 78, at p. 6.)

18 Evidence of substantial community service and pro bono activities was also introduced,
19 including Respondent’s participation in a mentor program at the San Francisco Public Defender’s
20 Office, in a State Bar mentor program working with people who have drug and alcohol problems,
21 and in regular speaking engagements at Mills College, the San Francisco Public Defender’s Office,
22 and the Women Defenders. Respondent has also taken many pro bono cases through the years and
23 appeared on television and radio as a legal commentator. Her community work merits significant
24 weight.

25 **B. Aggravation**

26 There are several aggravating factors. (Std. 1.2(b).)

27 Respondent committed multiple acts of wrongdoing, including failing to perform services,
28 failing to communicate, failing to return unearned fees of \$21,500, failing to maintain respect for the

1 courts, misleading the court, committing an act to moral turpitude and failing to report judicial
2 sanctions. (Std. 1.2(b)(ii).)

3 More importantly, Respondent's contemptuous trial conduct from 1997 to 2000 in three
4 client matters (*Angelo, Chong and Reed*) demonstrates a pattern of misconduct. The Supreme Court
5 has limited this characterization to "only the most serious instances of repeated misconduct over a
6 prolonged period of time." (*Young v. State Bar* (1990) 50 Cal.3d 1204, 1217.) Respondent's
7 misconduct in four years is an extended period of time and the eight contempt orders issued against
8 her reflect serious repeated misconduct.

9 Respondent committed a violation of the State Bar Act that was uncharged but is considered
10 as aggravating. (Std. 1.2(b)(iii).) Respondent's contemptuous conduct in *People v. Raymond Reiter*,
11 Alameda County Superior Court, docket No. H-22497-B, is an uncharged violation of section
12 6068(d). Judge Hurley testified that he held her in contempt in April and May 1997 because she
13 misled the court and withheld information from the court. (State Bar exhibit 100.) This occurred
14 shortly after Judge Hurley had previously held Respondent in contempt in the *Angelo* trial. Because
15 Judge Hurley's testimony was properly admitted, without Respondent's objection, the court
16 considers that evidence in aggravation. (*Edwards v. State Bar* (1990) 52 Cal.3d 28, 36.)

17 Respondent's misconduct harmed significantly her clients, the public and the administration
18 of justice. (Std. 1.2(b)(iv).) Her failure to return unearned fees caused her clients substantial
19 financial harm. Her disruptive and insolent behavior in the courtroom harmed significantly the
20 administration of justice and the public. The court had to expend considerable resources holding
21 contempt hearings and issuing very detailed contempt orders. Judge Walker also testified that
22 Respondent's misrepresentation not only inconvenienced the court but also delayed the process in
23 obtaining substitute counsel for Basalo.

24 Respondent demonstrated indifference toward rectification of or atonement for the
25 consequences of her misconduct. (Std. 1.2(b)(v).) She has yet to refund unearned fees to her clients
26 even though she admits that she owes most of them money. She also does not recognize her
27 contemptuous behavior in the courtroom. In fact, she was flattered by the appellate court's opinion
28 criticizing her conduct in *Chong* and blamed the prosecutor and the court for attacking her in *Reed*.

1 And in her closing argument, she insists that "Judge Horner's imposition of the harshest possible
2 penalties on [Respondent] in Reed bolsters Respondent's position that Judge Horner had an agenda
3 regarding [Respondent]." (Respondent's Closing Argument, at p. 15.) Despite the long period of
4 time to ponder and the many rulings by Judge Horner, Judge Henderson, and the Ninth Circuit Court
5 of Appeals, Respondent continues to argue before this court that there was judicial, prosecutorial and
6 gender bias against her in *Reed*. There is no evidence of such bias. Her lack of remorsefulness is
7 of great concern to this court.

8 The State Bar submits that Respondent's additional contempt finding in *United States v. John*
9 *Luong*, United States District Court, Northern District of California, case No. CR-96-0105-MHP,
10 by Chief Judge Marilyn Hall Patel, demonstrates further evidence in aggravation of Respondent's
11 lack of remorsefulness and repeated misconduct. Respondent has objected to State Bar's request for
12 judicial notice of the *Luong* exhibits on the ground of relevancy.

13 Unlike the *Reiter* matter, in which Judge Hurley testified as to her misconduct without
14 objection, the *Luong* exhibits standing alone would not be appropriately admissible as evidence in
15 aggravation. (*In the Matter of Dixon* (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 23, 41; *In the*
16 *Matter of Phillips* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315, 340.) "[T]he better practice
17 would have been to file a separate charge against Respondent for such misconduct." (*In the Matter*
18 *of Dixon, supra*, 4 Cal. State Bar Ct. Rptr. at p. 41.) Moreover, there is no clear and convincing
19 evidence that Respondent was held in contempt since there is no evidence of a contempt hearing or
20 order.

21 Respondent's failure to comply with discovery requests in this proceeding regarding the *Reed*
22 matter, demonstrating a lack of candor and cooperation to the State Bar, is a serious aggravating
23 factor. (Std. 1.2(b)(vi).)

24 V. DISCUSSION

25 The purpose of State Bar disciplinary proceedings is not to punish the attorney, but to protect
26 the public, to preserve public confidence in the profession and to maintain the highest possible
27 professional standards for attorneys. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111; *Cooper v.*
28 *State Bar* (1987) 43 Cal.3d 1016, 1025; std. 1.3.)

1 Respondent's misconduct involved nine client matters. The standards provide a broad range
2 of sanctions ranging from reproof to disbarment, depending upon the gravity of the offenses and
3 the harm to the client. (Stds. 1.6, 2.4(b), 2.6, and 2.10.)

4 The standards, however, are only guidelines and do not mandate the discipline to be imposed.
5 (*In the Matter of Moriarty* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 245, 250-251.) "[E]ach
6 case must be resolved on its own particular facts and not by application of rigid standards." (*Id.* at
7 p. 251.)

8 Respondent argues that a private reproof with probation conditions would be adequate to
9 address her misconduct in the nine client matters. Respondent cited no cases to support her
10 contention.

11 The State Bar urges two years of actual suspension and until Respondent makes restitution,
12 citing several cases, including *Maltaman v. State Bar* (1987) 43 Cal.3d 924, *Lebbos v. State Bar*
13 (1991) 53 Cal.3d 37, *In the Matter of Nees* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 459, and
14 *Bach v. State Bar* (1987) 43 Cal.3d 848, in support of its recommendation.

15 In *Maltaman*, the attorney was actually suspended for one year for committing acts of moral
16 turpitude, including presentation of a knowingly false order to a judicial office in order to obtain a
17 litigation advantage, disobedience to a series of court orders and false testimony in the disciplinary
18 proceeding. He had no prior record of discipline.

19 In *Lebbos*, the Supreme Court disbarred an attorney who committed multiple acts of
20 misconduct involving moral turpitude and dishonesty, including commingling client funds, filing
21 an altered court order with the intent to deceive, concealing assets from a judgment creditor,
22 disobeying court orders, and lying to a client, the court and the State Bar. The attorney also engaged
23 in unrestrained personal abuse and disruptive behavior during the State Bar proceedings. She had
24 no prior record of discipline.

25 In *In the Matter of Nees*, the attorney was actually suspended for six months and until he
26 completed restitution for abandoning an incarcerated client and his failure to return unearned fees.
27 The court found especially aggravating that the attorney's holding of the client's \$7,000 advanced
28 fees effectively prevented the client from seeking other counsel.

1 In *Bach*, the Supreme Court imposed one year stayed suspension, three years probation and
2 60 days actual suspension to an attorney for wilfully and intentionally seeking to mislead a judge in
3 regards to an order that the attorney produce his client at a family law mediation. The Court also
4 found that the misconduct constituted moral turpitude. No mitigating circumstances were found.
5 In aggravation, the attorney had one prior instance of discipline, a public reproof.

6 Another instructive case is *Bledsoe v. State Bar* (1991) 52 Cal.3d 1074, where the Supreme
7 Court found that a two-year actual suspension was warranted where an attorney abandoned four
8 clients, failed to return unearned fees, failed to communicate with three clients and failed to
9 cooperate with the State Bar. He had no prior record of discipline in 17 years of practice.

10 The appropriate degree of discipline to recommend is based on a balanced consideration of
11 all relevant factors. Here, Respondent has had no prior record of discipline in 17 years of practice
12 and a long record of community work. The court recognizes her dedication to her work and her
13 lawyering skills as attested to by her mitigation witnesses. As Judge Warren J. Ferguson who
14 dissented in *United States v. Marcellus Aaron Elder*, United States Court of Appeals, Ninth Circuit,
15 No. 00-10143, in which Respondent was the defense attorney, opined:

16 "A law school dean stated, '[Respondent] is representative of a dying
17 breed—that is, a lawyer who is just an unbelievably hellcat fighter for
18 her clients.' [Citation.] ... a federal public defender stated that
19 [Respondent] has had some 'amazing results' and that she does things
20 that 'make the jury take more note of the case, perhaps think more
critically of the case What she is good at is courtroom tactics in
cases that are hard if not impossible to win.'"
(State Bar exhibit 97, at pp. 20-21.)

21 Unfortunately, however, in the cases at hand Respondent's behavior clearly and repeatedly
22 crossed the line from zealous advocacy to contemptuous disrespect in the courtroom. As noted by
23 the Court of Appeal in the *Chong* matter: "In order to instill public confidence in the legal profession
24 and our judicial system, an attorney must be an example of lawfulness, not lawlessness." (State Bar
25 exhibit 72, at p. 21.) In Respondent's apparent fervor to win, she lost sight of her professional and
26 ethical responsibilities.

27 Moreover, Respondent has been found culpable of not only disrespectful behavior before the
28 court, but also failure to refund a significant amount of fees (\$21,500), misleading the court and

1 other wrongdoing spanning from 1997 through 2000. Respondent's limited acknowledgment of her
2 misconduct and her persistent attempts to refute the clear evidence, including the court transcripts
3 in *Reed* that she was rude, loud and insolent to the court, and the court's conclusion in the Basalo
4 matter that there was no fee agreement, are troubling. She clearly has shown no insight into her
5 wrongdoing and demonstrated no remorse for her actions. Respondent fails to accept responsibility
6 or appreciate the gravity of her misconduct. She knew what she was doing and intended to commit
7 the acts.

8 In recommending discipline, the "paramount concern is protection of the public, the courts
9 and the integrity of the legal profession." (*Snyder v. State Bar* (1990) 49 Cal.3d 1302.) An
10 attorney's failure to accept responsibility for actions which are wrong or to understand that
11 wrongfulness is considered an aggravating factor. (*Carter v. State Bar* (1988) 44 Cal.3d 1091, 1100-
12 1101.)

13 While her offenses are not as serious as that of the attorney in *Lebbos*, substantial discipline
14 is required. The enormous harm to clients and to the administration of justice weigh heavily in
15 assessing the appropriate level of discipline. Respondent failed to return unearned fees, failed to
16 perform services, failed to communicate, misled the court and repeatedly engaged in disruptive
17 conduct in the courtroom.

18 Moreover, it has long been held that "[restitution is fundamental to the goal of rehabilitation."
19 (*Hippard v. State Bar* (1989) 49 Cal.3d 1084, 1094.) Restitution is a method of protecting the public
20 and rehabilitating errant attorneys because it forces an attorney to confront the harm caused by her
21 misconduct in real, concrete terms. (*Id.* at p. 1093.) Therefore, Respondent should refund all legal
22 fees to her client if she had not done so.

23 In view of the misconduct, the aggravating and mitigating evidence, and the case law, placing
24 Respondent on an actual suspension for two years and until she makes restitution would be
25 appropriate to protect the public and to preserve public confidence in the profession.

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VI. RECOMMENDED DISCIPLINE

ACCORDINGLY, this court recommends that Respondent **MAUREEN KALLINS** be suspended from the practice of law in California for two years, that execution of the suspension be stayed, and that Respondent be placed on probation for three years with the following conditions:

1. Respondent shall be actually suspended from the practice of law for the first two years of probation and until Respondent pays restitution to Maria Maldonado (or the Client Security Fund, if it has already paid) in the amount of \$4,956, plus ten per cent (10%) interest per annum, accruing from May 11, 1998, to Sabrina Session (or the Client Security Fund, if it has already paid) in the amount of \$3,250, plus ten per cent (10%) interest per annum, accruing from January 16, 2002, and to Gaynell Carter-Mays and Tiffany Harris-Sutton (or the Client Security Fund, if it has already paid) in the amount of \$13,500, plus ten per cent (10%) interest per annum, accruing from February 5, 2001, and provide satisfactory proof thereof to the Office of Probation during the period of probation; and until she shows proof satisfactory to the State Bar Court of rehabilitation, present fitness to practice, and present learning and ability in the law, pursuant to standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct;

2. During the probation period, Respondent shall comply with the State Bar Act and the Rules of Professional Conduct;

3. Respondent shall 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 shall 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. If the first report will cover less than 30 days, that report shall be submitted on the next following 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 20 days before the last day of the probation period and no later than the last day of the probation period;

Subject to the assertion of applicable privileges, Respondent shall answer fully, promptly,

- 1 and truthfully, any inquiries of the Office of Probation, which are directed to Respondent
2 personally or in writing, relating to whether Respondent is complying or has complied with
3 the conditions contained herein;
- 4 4. Within 10 days of any change, Respondent shall report to the Membership Records Office
5 of the State Bar, 180 Howard Street, San Francisco, California, 94105-1639, **and** to the
6 Office of Probation, all changes of information, including current office address and
7 telephone number, or if no office is maintained, the address to be used for State Bar
8 purposes, as prescribed by section 6002.1 of the Business and Professions Code;
- 9 5. Within one year of the effective date of the discipline herein, Respondent shall provide to the
10 Office of Probation satisfactory proof of attendance at a session of the Ethics School, given
11 periodically by the State Bar at either 180 Howard Street, San Francisco, California, 94105-
12 1639, or 1149 South Hill Street, Los Angeles, California, 90015-2299, and passage of the
13 test given at the end of that session. Arrangements to attend Ethics School must be made in
14 advance by calling (213) 765-1287, and paying the required fee. This requirement is separate
15 from any Minimum Continuing Legal Education Requirement (MCLE), and Respondent
16 shall not receive MCLE credit for attending Ethics School (Rules Proc. of State Bar, rule
17 3201);
- 18 6. Within one year of the effective date of the discipline herein, Respondent shall supply to the
19 Office of Probation satisfactory proof of attendance at a session of the Ethics School Client
20 Trust Accounting School, within the same period of time, given periodically by the State Bar
21 at either 180 Howard Street, San Francisco, California, 94105-1639, or 1149 South Hill
22 Street, Los Angeles, California, 90015-2299, and passage of the test given at the end of that
23 session. Arrangements to attend Ethics School Client Trust Accounting School must be
24 made in advance by calling (213) 765-1287, and paying the required fee. This requirement
25 is separate from any Minimum Continuing Legal Education Requirement (MCLE), and
26 Respondent shall not receive MCLE credit for attending Trust Accounting School.(Rule
27 3201 of the Rules of Procedure of the State Bar);
- 28 7. The period of probation shall commence on the effective date of the order of the Supreme

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Court imposing discipline in this matter; and

8. At the expiration of the period of this probation, if Respondent has complied with all the terms of probation, the order of the Supreme Court suspending Respondent from the practice of law for two years that is stayed shall be satisfied and that suspension shall be terminated.

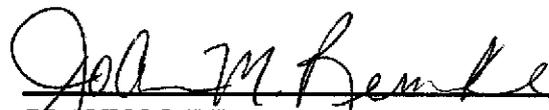
It is further recommended that Respondent take and pass the Multistate Professional Responsibility Examination (MPRE) administered by the National Conference of Bar Examiners, MPRE Application Department, P.O. Box 4001, Iowa City, Iowa, 52243, (telephone 319-337-1287) and provide proof of passage to the Office of Probation, within the period of her actual suspension. Failure to pass the MPRE within the specified time results in actual suspension by the Review Department, without further hearing, until passage.

It is further recommended that Respondent be ordered to comply with rule 955 of the California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule, within thirty (30) and forty (40) days, respectively, from the effective date of the Supreme Court order herein. **Wilful failure to comply with the provisions of rule 955 may result in revocation of probation; suspension; disbarment; denial of reinstatement; conviction of contempt; or criminal conviction.**

VII. COSTS

The court recommends that costs be awarded to the State Bar pursuant to Business and Professions Code section 6086.10 and payable in accordance with Business and Professions Code section 6140.7.

Dated: December 7, 2004



JOANN M. REMKE
Judge of the State Bar Court

CERTIFICATE OF SERVICE
[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court. 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 December 7, 2004, I deposited a true copy of the following document(s):

DECISION

in a sealed envelope for collection and mailing on that date as follows:

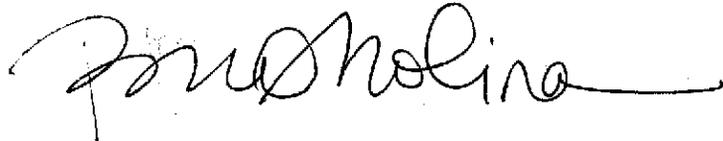
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

CHARLES MARTIN GRETSCH
PO BOX 2007
VANCOUVER WA 98668 2007

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

ROBIN HAFFNER, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **December 7, 2004.**



Bernadette C. O. Molina
Case Administrator
State Bar Court