

State Bar Court of California
Hearing Department
Los Angeles

ORIGINAL

<p>Counsel For The State Bar</p> <p>Djinna M. Gochis, Assistant Chief Trial Counsel 1149 South Hill Street Los Angeles, California 90015 (213) 765-1000</p> <p>Bar # 108360</p>	<p>Case Number (s) 07-0-11654</p> <p>(for Court's use)</p> <p>FILED NOV 13 2008 <i>YJC</i></p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> <p>PUBLIC MATTER</p>
<p>In Pro Per Respondent</p> <p>Christine A. Gray 743 Whitemarsh Avenue Deltona, Florida 32725</p> <p>Bar # 154209</p>	<p>Submitted to: Assigned Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>STAYED SUSPENSION; NO ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>
<p>In the Matter Of: Christine A. Gray</p> <p>Bar # 154209</p> <p>A Member of the State Bar of California (Respondent)</p>	

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **December 10, 1991**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of *12* pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."



- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- costs added to membership fee for calendar year following effective date of discipline.
 - costs to be paid in equal amounts prior to February 1 for the following membership years: **2009, 2010, 2011**
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
 - costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
 - costs entirely waived

B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

- (1) **Prior record of discipline** [see standard 1.2(f)]
- (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 or a separate attachment entitled "Prior Discipline."
- (2) **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) **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.
- (4) **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8) **No aggravating circumstances** are involved.

Additional aggravating circumstances

see page 9

C. Mitigating Circumstances [see standard 1.2(e)]. 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 deemed serious.
- (2) **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) **Good Faith:** Respondent acted in good faith.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances

see page 9

D. Discipline:

(1) **Stayed Suspension:**

(a) Respondent must be suspended from the practice of law for a period of **one year**.

i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.

ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

iii. and until Respondent does the following:

The above-referenced suspension is stayed.

(2) **Probation:**

Respondent is placed on probation for a period of **two (2) years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court)

E. Additional Conditions of Probation:

(1) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.

(2) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.

(3) Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.

(4) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

(5) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.

(6) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are

directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.

- (7) Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the State Bar Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason:
- (8) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (9) The following conditions are attached hereto and incorporated:
- Substance Abuse Conditions Law Office Management Conditions
- Medical Conditions Financial Conditions see below

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
- No MPRE recommended. Reason:
- (2) **Other Conditions:**

RESTITUTION CONDITION/REPAYMENT OF LOAN

Respondent has entered into an agreement with Laws (through her civil attorney) for the full repayment of the loan on or before June 7, 2009. Respondent must pay the full amount as provided in that agreement on or before June 7, 2009 and provide satisfactory proof of payment not later than July 10, 2009, accompanying her quarterly report.

The balance currently owing to Laws as of the date of the execution of this stipulation is \$23,660.28.

(Do not write above this line.)

Attachment language (if any):

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ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: CHRISTINE A. GRAY

CASE NUMBER(S): 07-0-11654

FACTS AND CONCLUSIONS OF LAW

Respondent admits that the following facts are true and that she is culpable of wilfully violating rules 3-300 and 3-310(C)(1) of the Rules of Professional Conduct.

1. Christine A. Gray ("Respondent") was admitted to the practice of law in the State of California on December 10, 2001, was a member at all times pertinent to these charges and is currently a member of the State Bar of California. She is presently a voluntarily inactive member, effective February 2008.

Count One

07-0-11654

Complainant Laws

2. Respondent was hired by Vernita Laws (" Ms. Laws") in or about 1993. From and after that time, they became friends. Respondent assisted Ms. Laws individually in various legal matters up until approximately May 2005, without charge. The next representation, for which Respondent was paid, began in or about June 2005, regarding the dissolution of Ms. Laws' marriage.

3. On or about May 6, 2005, Ms. Laws made a loan to the Respondent of \$26,000.00 with which Respondent purchased a vehicle. Ms. Laws was placed on Respondent's vehicle title as the lienholder.

4. Respondent did not, however, comply with the requirements of rule 3-300 in taking the loan, to wit, there was no writing by which the terms of the agreement were fully disclosed to Ms. Laws in terms that would be reasonably understood; Ms. Laws was not advised nor provided an opportunity to seek independent counsel before making the loan, and Ms. Laws did not consent, in writing, to the making of the loan.

5. Respondent has been fulfilling the terms of the loan by making monthly payments.

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Attachment Page 1

Respondent has made arrangements to pay back the balance of the loan to Laws on or before June 7, 2009.

Conclusions of Law

6. By failing to transmit the terms of the loan to Laws in writing, failing to advise Laws to or provide an opportunity for her to seek independent counsel, and failing to obtain Laws' written consent, Respondent wilfully violated rule 3-300 of the Rules of Professional Conduct.

COUNT TWO

07-0-11654

Complainant Laws

7. Respondent was hired by Ms. Laws regarding the dissolution of her marriage in June 2005. In January 2006, Respondent also began to represent David Laws, Ms. Law's husband. She acted as their counsel until May or June 2006. Respondent was paid the total sum of \$25,000.00, in installments, from and after June 2005. The last payment was in May 2006 approximately one month before Respondent's dismissal.

8. Respondent cannot produce a written consent for the dual representation of Mr. and Mrs. Law in their divorce, where their interests potentially conflicted.

Conclusions of Law

9. By her conduct, Respondent accepted representation of more than one client where their interests potentially conflicted in wilful violation of rule 3-310(C)(1) of the Rules of Professional Conduct.

PENDING PROCEEDINGS

The disclosure date referred to on page one, paragraph (A)(7) was October 27, 2008.

COSTS OF DISCIPLINARY PROCEEDINGS

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of October 20, 2008, the estimated prosecution costs in this matter are approximately \$1,983. Respondent acknowledges that this figure is an estimate only. 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.

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Attachment Page 2

OTHER CIRCUMSTANCES BEARING ON THE DISPOSITION

For purposes of this settlement only, the following is accepted:

Respondent allowed herself to become careless in seeking to document, documenting and keeping records of key events in her dealings with Ms. Laws, because although she acted as her attorney over the years, she primarily thought of her as her friend. Respondent understands that whether or not she was paid, she was still acting as an attorney. She understands that payment for services is not an element of defining "representation" pursuant to the Rules of Professional Conduct. Respondent saw her dealings with Ms. Laws as being at arms length, when they were not, in fact. She was not sufficiently sensitive to the power imbalance between them and that her status as an attorney lent her an authority and credibility which influences others inherently and not always to their benefit. Respondent feels that the complaint against her was a consequence of her client's declination to submit documents which were a condition precedent to concluding the marital settlement. However, she has come to understand that her views in that regard do not obviate the presence of a violation of the Rules of Professional Conduct.

Respondent has also come to understand that her role as attorney governs her relationships and obligations, and that the Rules of Professional Conduct regarding adverse interest and conflict are designed to prevent precisely the kind of problems and challenges that have developed in her dealings with her former client. She understands that taking loans from clients or any pecuniary or financial interest, even if all the requirements of rule 3-300 are followed, and even if the parties consider themselves "friends", is not a prudent path given an attorney's higher fiduciary obligations. That a client (perhaps exacerbated by the additional relationship of friend in this case) reposes trust in someone who is an attorney and that pecuniary relationships without the adherence to the rules are inherently an abuse of that trust (See for example, *Beery v. State Bar* (1987) 43 Cal.3d 802).

As to the 3-310(C)(1) conflict by representing both Mr. And Ms. Laws in their divorce: Although Respondent insists that she did do a written "waiver" (disclosure) so that she could represent both of them, (that she returned to Ms. Laws, with the original file, upon what Respondent did not then realize, turned out to be the end of their relationship) she has no hard copy, nor a computer file demonstrating the original draft of one, nor a transmittal letter that indicates such a "waiver" was sent to the clients. Respondent understands that the failure to produce the written disclosure is her responsibility, not the responsibility of the clients.

Respondent has been an attorney since 1991 without prior discipline. She has been cooperative

in responding to the investigator and to the attorney reviewing the matter. She arranged for a repayment of the loan in or about January 2007, before the State Bar received a complaint in or about March 2007.

STANDARDS AND CASE AUTHORITY BEARING UPON THE DISPOSITION

The Standards for Attorney Sanctions for Professional Misconduct provide that the purposes of discipline include the protection of the public, the courts and the legal profession, the maintenance of high professional standards and the preservation of public confidence. A permissible object of discipline is the rehabilitation of the member.

The Standard that specifically applies to rule 3-300, 2.8, states that a wilful violation shall result in suspension unless the extent of the member's misconduct and the harm to the client are minimal, in which case, the degree of discipline shall be reproof.

As is often the circumstance in making an evaluation, case law demonstrates varied responses to conduct like that presented herein, also within the broad range of reproof to actual suspension (for example, *Hunnecutt v. State Bar* (1988) 44 Cal. 3d 362; *Ritter v. State Bar* (1985) 40 Cal.3d. 595). *Ritter* is a seminal, older case with a fact pattern not unlike the one here at Bar. In *Ritter*, the clients had known each other since the early 1970s. They were friends. The member represented the wife in a medical malpractice case in 1975 through 1978. In the latter course of that representation, Respondent asked for a loan of a portion of their settlement. There was an "investment agreement" and although the attorney insisted that he had given them sufficient opportunity to seek counsel, the court disagreed.

Because of the fact that the relationship between an attorney and client is one of the highest fiduciary character, the court noted that all dealings between them that are beneficial to an attorney (as obviously a \$25,000 loan to Respondent herein was) will be scrutinized closely for any unfairness. The rule makes it incumbent on the lawyer to assure that the rule and its various prongs are followed.

In the Review Department case of Anthony *Fonte* (1994) 2 Cal. State Bar Ct. Rptr. 752, there were three violations found, 3-300, 3-310 (both as in this case) and a failure to account 4-100(B)(3)¹ the court imposed one year stayed, two years probation and sixty days actual suspension. In the case at bar, it is believed that the same basic disposition as that given in *Ritter* (involving only a 3-300), will address both violations and discharge the primary purposes of

¹In this matter, there was originally a 4-100(B)(3) allegation, but based on the totality of the evidence to date, it has been determined that this is more a civil/fee arbitration matter than a discipline one.

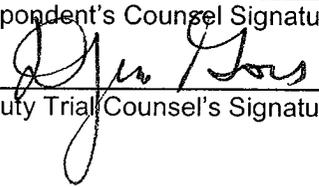
attorney discipline as well as to foster the rehabilitation of the member.

(Do not write above this line.)

In the Matter of Christine A. Gray	Case number(s): 07-0-11654
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SIGNATURE OF THE PARTIES

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

<u>11/3/08</u> Date	 Respondent's Signature	<u>CHRISTINE A. GRAY</u> Print Name
<u>11/6/08</u> Date	 Deputy Trial Counsel's Signature	<u>DJINNA M. GOCHIS</u> Print Name

(Do not write above this line.)

In the Matter Of Christine A. Gray	Case Number(s): 07-0-11654
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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.

Paragraph A (8) is modified to refer to membership years 2010, 2011, and 2012.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 135(b), Rules of Procedure.) The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)

11/13/08
Date


Judge of the State Bar Court
DONALD F. MILES

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on November 13, 2008, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL SUSPENSION

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:

CHRISTINE A. GRAY
743 WHITEMARSH AVE
DELTONA, FL 32725

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

DJINNA M. GOCHIS, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on November 13, 2008.



Tammy Cleaver
Case Administrator
State Bar Court