



(Do not write above this line.)

**State Bar Court of California
Hearing Department
Los Angeles**

<p>Counsel For The State Bar</p> <p>Dane C. Dauphine Supervising Trial Counsel 1149 South Hill St. Los Angeles, CA 90015-2299 Tel.: (213) 765-1293</p> <p>Bar # 121606</p>	<p>Case Number (s) 09-O-12473</p> <p>PUBLIC MATTER</p>	<p>(for Court's use)</p> <p>FILED</p> <p>MAY 04 2010</p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> 
<p>In Pro Per Respondent</p> <p>Carla R. McBeath 96 Linwood Plaza, #130 Fort Lee, NJ 07024 Tel. (646) 279-8284</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>Bar # 106047</p> <p>In the Matter Of: CARLA RUTH MCBEATH</p> <p>Bar # 106047</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 3, 1982**.
- (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 **11** 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."

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- (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: **2011, 2012, 2013**
(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. **Respondent's failure to refund unearned fees of \$2,600 has deprived the client of the funds.**
- (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

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. **Respondent has cooperated with the State Bar in stipulating to the facts and conclusions of law in this matter.**
- (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. **After leaving the Johnson firm, Respondent has had difficulty finding work in immigration law sufficient to meet her financial obligations. Her failure to make any partial payment to Mr. Zoumari while paying making payment towards other debts provides factual support for the stipulated violation.**
- (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

Respondent has no record of prior discipline over many years of practice since her admission to the State Bar in 1982.

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 **three 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.

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- (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: **Respondent resides in New Jersey.**
- (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:
- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input checked="" type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation 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:**
- Within one year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of completion of six hours of MCLE approved courses in legal ethics.**

In the Matter of
CARLA RUTH MCBEATH

Case number(s):
09-O-12473

A Member of the State Bar

Financial Conditions

a. Restitution

- Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From
Ali B. Zoumari	\$2,600	March 1, 2006

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than

b. Installment Restitution Payments

- Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency
Ali B. Zoumari	\$300	quarterly

c. Client Funds Certificate

1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

b. Respondent has kept and maintained the following:

- i. A written ledger for each client on whose behalf funds are held that sets forth:
 1. the name of such client;
 2. the date, amount and source of all funds received on behalf of such client;
 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
 4. the current balance for such client.
- ii. a written journal for each client trust fund account that sets forth:
 1. the name of such account;
 2. the date, amount and client affected by each debit and credit; and,
 3. the current balance in such account.
- iii. all bank statements and cancelled checks for each client trust account; and,
- iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.

c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:

- i. each item of security and property held;
- ii. the person on whose behalf the security or property is held;
- iii. the date of receipt of the security or property;
- iv. the date of distribution of the security or property; and,
- v. the person to whom the security or property was distributed.

2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.
3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

d. Client Trust Accounting School

- Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

brief, and she requested that he make a further payment of \$1,000 in fees. On or about December 2, 2005, Zoumari sent Respondent a payment of \$1,000 towards her fees.

7. At no time did Respondent file a brief on behalf of Zoumari. On or about January 23, 2006, the court dismissed Zoumari's case due to the failure to file a brief.

8. On or about January 31, 2006, Respondent sent a letter to Zoumari enclosing a notice of appearance of counsel form and a substitution of attorney form for him to sign and return to her. Respondent's letter also explained to Zoumari that the administrative record had been sent to the Johnson firm and that she needed a substitution of attorney in order to obtain the record from the Johnson firm. Respondent also asked that Zoumari pay \$400 towards her fees. Zoumari received the letter. On or about February 6, 2006, Zoumari returned the signed forms to Respondent with a payment of \$400.

9. In or about February 2006, Respondent learned of the dismissal of Zoumari's case. At no time did Respondent file a motion to reopen Zoumari's appeal. Respondent did not inform Zoumari of the dismissal of his appeal due to the failure to file a brief.

10. After January 2006, Zoumari repeatedly attempted to contact Respondent by telephone, leaving messages for her to respond to his request to learn the status of his case. Respondent did not return Zoumari's phone calls.

11. Respondent did not provide services of any value to Zoumari after leaving the Johnson firm. Respondent did not earn any of the \$2,600 in fees paid by Zoumari for legal services. At no time did Respondent refund any of the fees paid by Zoumari.

CONCLUSIONS OF LAW:

12. By not seeking admission to the U.S. Court of Appeals for the Second Circuit and becoming Zoumari's counsel of record, and by not filing a brief in Zoumari's appeal or a motion to reopen Zoumari's case in order to obtain further time to file the brief, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of the Rules of Professional Conduct, rule 3-110(A).

13. By failing to inform Zoumari that she had not filed a brief on his behalf and that his case had been dismissed and by not returning Zoumari's phone calls, Respondent failed to keep a client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services and to respond promptly to reasonable status inquiries of a client in willful violation of the Business and Professions Code, section 6068(m).

14. By not refunding any of the \$2,600 received from Zoumari for legal services, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of the Rules of Professional Conduct, rule 3-700(D)(2).

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was March 26, 2010.

AUTHORITIES SUPPORTING DISCIPLINE.

According to the Standards for Attorney Sanctions, if there is culpability for failure to perform in a single case and refund unearned fees, the standards call for discipline ranging from reproof to suspension depending upon the extent of the misconduct and the degree of harm to the client. The disposition here is within the range of the standards and supported by case law.

The Standards for Attorney Sanctions for Professional Misconduct:

Standard 1.6(a) provides that where two or more acts of professional misconduct are found or acknowledged in a single disciplinary proceeding, and different sanctions are prescribed by these standards for said acts, the sanctions imposed shall be the more or most severe of the different applicable sanctions.

Standard 2.4 (Offenses involving willful failure to communicate/performance services): Culpability in an individual matter or matters not demonstrating a pattern of misconduct shall result in reproof or suspension depending upon the extent of the misconduct and the degree of harm to the client.

Standard 2.10 (Offenses involving other violations not specified in other standard): Culpability for other violations not covered by a specific standard shall result in reproof or suspension according to the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline.

Case Law

Abandonment of a single client has resulted in stayed suspension or a short actual suspension even in the absence of a prior record of discipline. "Decisions of the Supreme Court and our court involving abandonment of a client's case with no prior record of the attorney's misconduct have typically resulted in discipline ranging from no actual suspension to 90 days of actual suspension." (*In the Matter of Nees* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 459 (2-year stayed suspension, 2 years probation, 6 months actual suspension and until restitution). See also *Layton v. State Bar* (1991) 50 Cal.3d 889 (30 day actual suspension for abandonment of a trust/estate matter; no prior discipline in 30 years); *Harris v. State Bar* (1990) 51 Cal.3d 1082 (90 days actual for abandonment of single client matter; no prior discipline in 10 years); *Van Sloten v. State Bar* (1989) 48 Cal.3d 921 (stayed suspension, no actual, for abandonment of a single client matter; no prior discipline); *Wren v. State Bar* (1983) 34 Cal.3d 81 (45 days actual suspension for failing to perform in a single client matter with misrepresentation to client; no prior discipline in 22 years); *In the Matter of Aguiluz* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32 (stayed suspension, no actual, for abandonment of client and failure to release client file; no prior discipline).

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In the Matter of CARLA RUTH MCBEATH	Case number(s): 09-O-12473
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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.

4/15/2010
Date

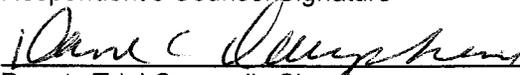

Respondent's Signature

Carla R. McBeath
Print Name

Date

4-21-10
Date

Respondent's Counsel Signature


Deputy Trial Counsel's Signature

Print Name

Dane C. Dauphine
Print Name

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In the Matter Of CARLA RUTH MCBEATH	Case Number(s): 09-O-12473
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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.

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.)**

5/4/10
Date



Judge of the State Bar Court
RONALD 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 May 4, 2010, I deposited a true copy of the following document(s):

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

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

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

CARLA RUTH MCBEATH
96 LINWOOD PLZ STE 130
FORT LEE, NJ 07024

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

DANE DAUPHINE, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on May 4, 2010.



Rose Luthi
Case Administrator
State Bar Court